



BOARD OF COUNTY COMMISSIONERS
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Gutierrez – CU2022-0038-APL

The Canyon County Board of County Commissioners consider the following:

1) Appeal (CUP)

CU2022-0038-APL, 17087 N Franklin Blvd, Nampa ID 83687 (Parcel Number: R30792), a portion of the SE¼ of Section 03, T3N, R2W, BM, Canyon County, Idaho

Summary of the Record

1. The record is comprised of the following:
 - A. The record includes all testimony, the staff report, exhibits, and documents in Case File CU2022-0038-APL.
 - B. Findings of Fact, Conclusions of Law and Order signed by the Planning and Zoning Commission on February 2, 2023. *See* Attachment 1.
 - C. An appeal filed by Manuel & Jose Gutierrez was submitted on February 17, 2023 pursuant to Canyon County Code §07-05-07. *See* Attachment 4.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-11-25 (Area of City Impact Agreement).
 - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
 - b. The decisions of the commission or the hearing examiner may be appealed to the board by filing a written notice of appeal with DSD within fifteen (15) calendar days of the date the FCOs were signed. The notice of appeal should include a statement of the reasons for the appeal and must be accompanied by a filing fee as established by the adopted fee schedule. *See* CCZO §07-05-05.
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act ("LLUPA") and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6512.
3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504.
4. The Board can sustain, modify or reject the Commission's recommendations. *See* CCZO §07-05-03.
5. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code § 67-6512.
6. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is

maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. Idaho Code § 67-6512.

7. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
8. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
9. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO §07-05-03(1)(I).

The appeal of Case CU2022-0038 was presented at a public hearing before the Canyon County Board of County Commissioners on May 31, 2023. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board of County Commissioners decides as follows:

FINDINGS OF FACT & CONCLUSION OF LAW

- (1) The applicant filed an appeal to Case CU2022-0038 on February 17, 2023 pursuant to Canyon County Code §07-05-05 asking the Board of County Commissioners ("Board") to overturn the findings signed by the Planning and Zoning Commission.
- (2) The Board reviewed the Planning and Zoning Commission's written findings (Attachment 1), testimony (Attachment 2), and evidence presented in the public hearings on the application.
 - a. The Board finds that criteria 1, 2, 3, 5, 6, 7, and 8 from the findings of fact decided by the Planning and Zoning Commission in Attachment 1 are adequately supported by evidence demonstrating consistency with the required criteria pursuant to CCZO §07-07-05.
 - b. The Board finds the findings of fact decided by the Planning and Zoning Commission (Attachment 1) are not adequately supported by evidence; and therefore, the following criteria pursuant to CCZO §07-07-05 have been met and will be amended as follows:

Criteria 4: Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: The proposed use will not be injurious to other property in the immediate vicinity and will not negatively change the essential character of the area.

Findings: No evidence has been provided that the proposed use would be injurious to other property in the vicinity nor will it negatively change the essential character of the area. Impacts due to the existing allowed uses on the property including the single-family dwelling and landscape business cannot be considered because they are already allowed in the "A" (Agricultural) zone and are not part of the proposed use. To minimize potential impacts to existing and future uses in the area, conditions of approval are included.

- (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 14 and April 19, 2023. Newspaper notice was published on April 20, 2023. Property owners within 600' were notified by mail on April 19, 2023. The property was posted on April 27, 2023.
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0038-APL.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **approve** the appeal of Case #: CU2022-0038-APL **approving** the conditional use permit for a Staging Area on parcel R30792 subject to the following conditions as enumerated:

Conditions of Approval:



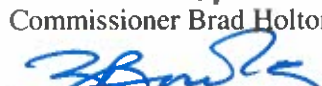
1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the subject property and the proposed use.
2. Historic irrigation lateral, drain, ditch flow patterns and associated easements shall be maintained and protected unless approved in writing by the local irrigation district or ditch company.
3. The facility shall be developed in general conformance with the Letter of Intent and Site Plan (Attachment 3).
4. Hours of operation shall not exceed 7:00 a.m. to 7:00 p.m., Monday through Friday. "Operation" is defined as movement of materials and employees not living on the property to and from the property.
5. All employee and business vehicles shall be parked on-site. Employee parking is prohibited on the public right-of-way.
6. Existing site-obscuring landscaping around the perimeter of the property shall be maintained.
7. Structures and fences shall be maintained in good repair. Equipment, weeds and trash shall be maintained so as not to become a public nuisance (Canyon County Code §02-01-05).
8. All exterior lighting shall be downward facing and directed away from adjacent properties.
9. This permit shall not be transferable to any other property or individual and is not valid for any business or use other than that specifically approved by the Board of County Commissioners.

Pursuant to Section 67-6535 of the Idaho Code, the applicant has 14 days from the date of the final decision to seek reconsideration before seeking judicial review.

DATED this 31 day of MAY, 2023.

CANYON COUNTY BOARD OF COMMISSIONERS

☒ Motion Carried Unanimously
☐ Motion Carried/Split Vote Below
☐ Motion Defeated/Split Vote Below

	Yes	No	Did Not Vote
 Commissioner Leslie Van Beek	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Commissioner Brad Holton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Commissioner Zach Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: Chris Yamamoto, Clerk

By: 
Deputy

Date: 5-31-23



Findings of Fact, Conclusions of Law, Conditions of Approval and Order

Conditional Use Permit - CU2022-0038

Findings of Fact

1. The applicants, Krista O'Dell & Jose Gutierrez, representing Manuel Gutierrez, are requesting a conditional use permit for a Staging Area located on parcel R30792. The application was submitted on August 11, 2022.
2. The property is zoned "A" (Agricultural).
3. The subject parcel, R30792, is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM: Canyon County, Idaho; and is approximately 1.59 acres in size.
4. The property is located within the Nampa City Impact Area.
5. Parcel R30792 has frontage along Franklin Blvd, a public road.
6. The property is located within the Nampa Fire District. No comments were received from that district.
7. A neighborhood meeting was conducted on June 29, 2022 in accordance with CCZO §07-01-15(1).
8. The request was noticed/published in accordance with Canyon County Code §07-05-01. Property owners within 600 feet of the property boundaries were noticed on December 29, 2022. Agencies were noticed on December 19, 2022. Newspaper notice was published on January 3, 2023. The property was posted on January 10, 2023.
9. All recorded herein consists of exhibits provided in the public hearing staff report, testimony and exhibits provided during the public hearing on January 19, 2023 and all information in case file CU2022-0038.

Conclusions of Law

For case file CU2022-0038, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (CCZO §07-07-05):

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The proposed use is permitted in the zone by conditional use permit.

Finding: The parcel is zoned "A" (Agricultural). Pursuant to CCZO §07-10-27, staging areas are allowed in the "A" (Agricultural) Zone subject to a conditional use permit. The applicants submitted a conditional use permit application on August 11, 2022 in accordance with CCZO §07-07-03.

2. What is the nature of the request?

The applicant is requesting a Staging Area within an "A" (Agricultural) Zone. The use will be contained within the 1.59-acre parcel which has frontage on Franklin Blvd, a public road.

The applicant's letter of intent and land use worksheet states the request is to use the property along the side and front for storage of trees, shrubs, equipment, and trucks for Progressive Lawn Care LLC. There are 8 employees who may come to the property to pick up or drop off materials. Hours of operation will not exceed 7am to 7pm, Monday through Friday. The proposed location of the staging area, east of the house, is hard-surfaced with gravel. Existing trees block site of the use from Franklin Blvd and properties to the south. The use does not include a sign.

3. Is the proposed use consistent with the Comprehensive Plan?

Conclusion: The proposed use is consistent with the Comprehensive Plan.

Finding: The subject property is designated as "Residential" on the future land use plan within the 2020 Canyon County Comprehensive Plan. The use is consistent with the following Canyon County Comprehensive Plan policies:

- Property Rights Policy No. 1: *"No person shall be deprived of private property without due process of law."*
- Property Rights Policy No. 11: *"Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods."*
- Population Goal No. 2: *"To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs."*
- Economic Development Policy No. 2: *"Support existing business and industry in the county."*
- Land Use Goal No 2: *"To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area."*
- Land Use Goal No. 3: *"Use appropriate techniques to mitigate incompatible land uses."*

4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: The proposed will be injurious to other property in the immediate vicinity. It will not negatively change the essential character of the area.

Finding: The proposed use will be injurious to other property in the vicinity according to public testimony. No conditions would be sufficient to mitigate all harm to neighbors. It will not negatively change the essential character of the area.

5. Will adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems be provided to accommodate the use;

Conclusion: The property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

Finding: Based on the applicant's letter of intent and land use worksheet, the property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

6. Does legal access to the subject property for the development exist or will it exist at the time of final plat;

Conclusion: Legal access does currently exist.

Finding: The property has access onto N Franklin Blvd which is a public road. No new access points are proposed. Nampa Engineering Division has jurisdiction over the road and did not comment on access.

7. Will there be undue interference with existing or future traffic patterns?

Conclusion: There will not be undue interference with existing or future traffic patterns.

Finding: Nampa Highway District, Idaho Transportation Department, and Nampa Highway District each provided an email stating they have no comments. The proposed use is not expected to generate enough traffic to require a traffic impact study, or to negatively affect existing traffic patterns.

Employees may enter and exit the property from 7 am to 7 pm, Monday-Friday. The staging area includes space for parking on site with gravel surface. All applicable off-street parking requirements shall meet CCZO Section 07-13-01 and 07-13-03.

8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conclusion: Necessary essential services will be provided to accommodate the use. The use is not anticipated to impact essential services or require additional public funding.

Finding: The parcel is in the Nampa Fire District. The use is not anticipated to impact essential services or require additional public funding. All essential services were notified of the proposed use. No agency comments were received to indicate that there would be an impact to essential services.

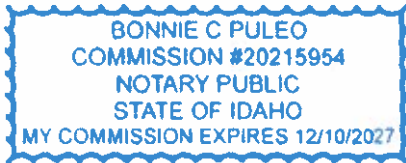
Order

Based upon the Findings of Fact, Conclusions of Law and Conditions of Approval enumerated above, the Planning and Zoning Commission **denies** Case CU2022-0038, a request for a Conditional Use Permit to allow a staging area on tax parcel R30792.

Pursuant to Idaho Code Section 67-6519, the following actions may be taken to obtain approval:

- There are no actions the applicant can take to obtain approval.

DENIED this 2nd day of February, 2023.



PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

A handwritten signature in blue ink, appearing to read "Brian Sheets".

Brian Sheets, Acting Chairman

State of Idaho)

SS

County of Canyon County)

On this 2nd day of February, in the year of 2023, before me Bonnie Puleo, a notary public, personally appeared Brian Sheets, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary:

A handwritten signature in blue ink, appearing to read "Bonnie C. Puleo".

My Commission Expires:

12/10/2027



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, January 19, 2023
6:30 P.M.

1ST FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman
Brian Sheets, Vice Chairman
Patrick Williamson, Commissioner
Ron Amarel, Commissioner
Harold Nevill, Commissioner
Miguel Villafana, Commissioner

Staff Members Present: Sabrina Minshall, Director of Development Services
Dan Lister, Planning Official
Samantha Hammond, Planner
Madelyn Vander Veen, Planner
Michelle Barron, Planner
Bonnie Puleo, Recording Secretary

Chairman Robert Sturgill called the meeting to order at 6:30 p.m.

Commissioner Villafana read the testimony guidelines and proceeded to the first business item on the agenda.

MOTION: Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case CU2022-0004/Michael Rawden. Motion seconded by Commissioner Sheets. Voice vote, motion carried.

MOTION: Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case RZ2022-0011 & SD2022-0034/Sierra Vista Properties-Mint Farms Estates. Motion seconded by Commissioner Williamson. Voice vote, motion carried.

- **Case No. CR2022-0026/Stacy Woodruff:** The applicant, Stacy Woodruff, is requesting a Conditional Rezone of parcel R38194010, approximately 3.98 acres, from an "A" (Agricultural) zone to a CR-R-1 (Conditional Rezone - Single-Family Residential) zone with the intent to split the lot into three residential lots. The subject property is located at 24822 Harvey Rd, Caldwell, ID; also referenced as a portion of the NW¼ of Section 35, T5N, R3W, Canyon County, Idaho.

Declaration: Commissioner Amarel disclosed that he knew the applicant, Stacy Woodruff and has worked with him in the past but has not discussed this case with him. When asked by Commissioner Sheets if his relationship with the applicant would prevent him from making an unbiased decision in this case, he said no.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Stacy Woodruff – Applicant (Representative) – IN FAVOR – 24856 Harvey Road Caldwell ID 83607

Mr. Woodruff wanted to provide his personal story behind the parcel of land. Mr. Woodruff, his two daughters and their husbands bought the parcel together after looking at the 2020 and 2030 Comprehensive Plan, anticipating they could split it into a total of three parcels. The house on the property was built in 1971 which they have remodeled and he said their intentions are in line with what the planner stated. They will follow all agency requirements. Their neighborhood meeting did not have a big turnout but he personally went around to most of the neighbors to get to know them. Most of the neighbors have been appreciative as the property was a wreck when they purchased it and they have spent time cleaning it up. He wanted to clarify that they were not part of that prior parcel split; they bought the parcel as the 3.9 acre parcel. Commissioner Villafana asked about the small triangle of land at the top of the parcel and if he maintained it. Mr. Woodruff stated they thought of approaching the landowner of that piece and offering to buy it; there is no easement for it. Mr. Woodruff said it is kind of 'no man's land' and the person who owned it before used it for pasture/grazing. Commissioner Villafana said if they don't want to sell it, it would be important to maintain it as it could be a fire hazard. Commissioner Williamson asked why the land was considered "not farmable". Mr. Woodruff said that "unfarmable" might be a bit of an overstatement; he clarified that they wouldn't be able to make any money off it. Commissioner Nevill asked about the piping of the ditch and if they had talked to the Irrigation District about it. Mr. Woodruff said no, they hadn't but they will. He said it is a 3-foot wide canal that runs through the south of the property with an easement on both sides of it. He thinks the Irrigation District may be more concerned about the canal where it goes under Harvey Road. Commissioner Nevill felt they might be more concerned about piping the ditch to protect it and so that kids don't fall in. Commissioner Nevill asked about the firefighting plan for the three houses. Mr. Woodruff said before they can get a building permit, they will have to talk to the Fire Department and see what is required. He doesn't know what they will want but will align with them on it. Mr. Woodruff said they will also have plenty of space on the third parcel for a fire truck to be able to turn around. When asked, Mr. Woodruff said they do not have any surface water rights but they do have an irrigation well with ground water rights for the parcels. They will make sure they have an agreement in place to handle those water rights. The land will be used primarily for pasture for animals.

MOTION: Commissioner Nevill moved to close public testimony on Case CR2022-0026 seconded by Commissioner Sheets. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets said after reviewing the application and hearing the testimony, he thinks the real issue is will two additional homes on that property be more appropriate? Based on the code, the Comprehensive Plan and the character of the surrounding area, he is not opposed to having two additional homes on that parcel.

Commissioner Nevill said when he initially heard the staff report, because he has seen too many of these, it is an area that should be platted because it is going into the middle of what will become a future residential area. But after hearing testimony from the applicant, he believes Mr. Woodruff has thought it through and has plans for everything Commissioner Nevill would be concerned about so he is in support of the case.

MOTION: Commissioner Williamson moved to approve Case CR2022-0026 including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of

Canyon County Commissioners. Motion seconded by Commissioner Villafana. Roll call vote: 6 in favor, 0 opposed, motion passed.

- **Case No. CU2022-0038/Manuel Gutierrez:** The applicant, Manuel Gutierrez, is requesting a conditional use permit for a Staging Area located on parcel R30792. The requested use includes storage of landscaping materials and equipment for use off-site. The applicant has proposed 8 employees. The parcel is zoned "A" (Agricultural). The subject property is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho.

Planner Madelyn Vander Veen reviewed the Staff report for the record including one late exhibits.

Chairman Robert Sturgill entered the late exhibit into the record and affirmed the witnesses to testify.

Testimony:

Manuel Gutierrez – Applicant (Representative) – IN FAVOR – 17087 N. Franklin Blvd Nampa ID 83688

Mr. Gutierrez is the owner of the property and is also the son of the owner of the business. He is there on behalf of the business and said he is hoping to be able to stage in that location. This is not a place of business, it is a place of storage. The employees show up in the morning and go. They store their plants and trees for the (landscaping) business in the back of the property and they try to keep it neat and respectful to neighbors and traffic passing by. The property is covered by trees. They have some small machinery; mini excavators and skid-steers. Regarding the pallets, Mr. Gutierrez said they come and go. They are not there anymore. They use them for the landscaping business to move blocks and plants. He said usually there aren't that many. They haven't had any complaints from their neighbors and have even done landscaping work and snow removal for them. They have also repaired Amy Lane, the road they all use and have filled the divots with road mix to keep it clean and level as a favor to their neighbors. Commissioner Sheets clarified with the applicant that he owns the property. Commissioner Nevill said staff proposed eight conditions and asked if he agreed with all eight. Mr. Gutierrez replied, yes. He was asked if this conditional use permit was not approved, would it shut down the business. Mr. Gutierrez said no, but they would need to find another place to use as a staging area. He said he hopes they don't have to. Commissioner Williamson said he wanted to propose a condition to Mr. Gutierrez: if there is a change in the owner of the business, is he okay with having the conditional use permit expire? Mr. Gutierrez said yes, if they sold the property or business, he would agree that it should expire. He said they moved there at the end of 2020. He was asked if he has trucks delivering materials there and Mr. Gutierrez said they go out and get the materials; there are no deliveries to the property. Chairman Sturgill asked Mr. Gutierrez about some items in the photographs and if they are used for the business. Mr. Gutierrez said yes, they were used for the business and explained what the items were. Commissioner Amarel asked about the pallets. He asked if Mr. Gutierrez had a plan for tidiness of the property? Mr. Gutierrez said that pallets come and go; some are rented and the business returns those. The pots shown in the photographs are used for their plants.

Elbia Gomez – IN FAVOR – 17083 Amy Lane Nampa ID 83687

Ms. Gomez lives next door to Mr. Gutierrez. She said she has never had any problems with them. She is thankful for them, especially when it snows. She has a small car and they plow her driveway and all the other neighbors' driveways with their trucks and are very helpful. She said that is why she is in favor of this; when driving in and out, it gets pretty bad and they fix it with their equipment. She reiterated that she is right next door and has had no problems with them as her neighbors.

Bill Plumb – IN OPPOSITION – 17154 N. Lochsa Nampa ID 83087

Mr. Plumb showed where his house was on the map. He said he is inside the city limits of Nampa and not in the County. He said contrary to how this goes, he wants Mr. Gutierrez to be successful. When this started, the Fire Department sent out a notice in June of 2022, about the staging area and 8 employees. The hours will be 7 am to 7 pm. He said what they started out with is not what they ended up with now; it's something totally different. He had taken some photos of the property and provided those as an exhibit for staff. The photo was taken a little back on Franklin. He said the pallets come and go. His significant concern is for the community. The Sheriff's Department has been called at least 5 times on that property; four times by Mr. Plumb himself because of the noise. Most of the time the noise is loud music; it starts in the morning and goes all day long. It is so loud he can't close his doors and drown it out. He would like to solve the noise issue so they can sit out on their back patio and maybe/maybe not hear the music. He began documenting the number of times he has asked them to turn it down. He said there is no noise ordinance in Canyon County. He said you have until 11:00 pm to make all the noise you want. In the City of Nampa, it is 10 pm. The total lack of concern for the surrounding community is a concern; if the business is allowed to come in now there are employees and equipment. He said his last option is to say he doesn't want it (the staging business). He wants the noise to stop. He said the noise is generally after work hours and is not related to the business per say but it is the business. If they have no respect, up until a few days ago, with this permit approval process coming up and they weren't taking into consideration their neighbors, he has a concern how this will play out in the future. He understands Mr. Gutierrez is a great neighbor and he said we need people like that but he has a right to peace and quiet and the business is disrupting it badly. Mr. Plumb spoke to Mr. Gutierrez the first time in May of last year and has left several messages since then. He no longer bothers and now calls the Sheriff. They can't do anything unless he was willing to charge a misdemeanor and he is not willing to do that, but something has to give. He said it is just music from their garage. There are times when it is the equipment on the weekends. He said if this passes without something to protect the neighborhood, then they don't have to worry about making noise. They can run anything they want from 7 am to 7 pm and there is no recourse. If it is a business, it shouldn't disrupt the neighborhood. When asked about the operating hours for the conditional use permit, he said it would be more acceptable to end it at 5 pm for the overall equipment noise. Commissioner Nevill said this is a staging area, not a repair yard. They have to apply for something different for a repair shop; it is just supposed to be for parking. Planning Official Dan Lister clarified that the code allows vehicle maintenance of the homeowner's or immediate family members' own vehicles and explained the difference between a contractor shop and a staging area. Because it is an Ag area, the landscaping business is allowed. They do not have any definition in the code for a landscaping business. Chairman Sturgill clarified with Mr. Lister that they can craft the conditions of approval for the staging area only not the landscaping business or the single family residence. Commissioner Villafana said the landscaping business can run 7 days a week; the change to the hours of operation would only apply to the staging area. The landscaping business can run until they start using it for other uses (example: retail) and then it would require a conditional use permit. A landscaping business required a conditional use permit before 2012 but now it is an allowed use. Chairman Sturgill asked if there were any other concerns about the use of the property and Mr. Plumb requested that they clean up the property a little bit or organize it better.

Manuel Gutierrez – Applicant (Representative) – REBUTTAL – 17087 N. Franklin Blvd Nampa ID 83688

Mr. Gutierrez said he understood where Mr. Plumb was coming from but he felt like the noise complaint was irrelevant to what they were speaking about that night. The music could be coming from other people in the house or anywhere else. He said that Mr. Plumb was correct; the police have come multiple times to the property. They have spoken to the police and they are fine with the music. The police agreed that there is nothing wrong with it and they are free to express noise as long as it is not after 10 or 10:30 pm.

They have not broken that rule. They listen to music in their backyard. There have been times that the police have come and the noise has not been coming from them; their neighbors play music as well. They live in an agricultural area and there is animal noise and people mowing lawns. They do sometimes operate their machinery and move trees on the weekend but they do it at a respectful time; not early in the morning or late at night. They are not trying to cause a disturbance. He agrees with Mr. Plumb on the music; they are not trying to be disrespectful. It is not disrespectful music. It's a big area and sounds echo. Mr. Gutierrez feels it is irrelevant to the business. He said they do work on equipment in the garage; it is him or his father replacing tires or working on a lawnmower. They don't contract with outside people and it is a very small space. He feels they are keeping the property organized; their trucks and trees are in line. They have fencing all around the property and it is lined with tall trees. It is distant from the road. Even their pile of wood is stacked. They try to keep it up and make it presentable. Commissioner Nevill asked if the music was related to the business or to the family living there. Mr. Gutierrez said it is related to the people who are living in the home. He and the employees are gone during the day. No employees live there. Commissioner Nevill said one of the suggestions was to end the day at 5 pm. Mr. Gutierrez said changing the hours to 5 pm would be hard to do because it would be a much earlier end to the day for them. Even compromising at 6 pm, it would be hard during the summer because it doesn't get dark until 10 pm. He agrees with 7 pm because that is the hours for their employees. Commissioner Williamson asked if this would be the only staging area and Mr. Gutierrez said yes. There was some discussion about the definition of the staging area versus what the normal landscaping business would allow. Mr. Gutierrez said he understood that they couldn't stage trees or plants over the weekend in the staging area. Mr. Gutierrez, in response to some of the photos shown, said the property looks different now. He said the complaints were only about the music and it was only one person filing the complaints. It was the same police officer who came to their property to discuss the issue most times and he said if they had to lower it by law, they would. But the police officer said he was just delivering the message that they received the complaint and there was nothing he could do. It is something they have always done (playing the music) and they have never had any complaints in the past. It's nothing obnoxious and it echoes. The music is coming from the household; they have someone living with them who loves music. He said again that he feels like the music has nothing to do with the business.

MOTION: Commissioner Williamson moved to close public testimony on Case CU2022-0038 seconded by Commissioner Nevill. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill's concern was that he didn't want to put them out of business but he doesn't know what to do about this. He said he doesn't think they can do anything about the noise as it was not related to the business, it was from the family. He doesn't think they can put conditions on the noise, as it is from a single family dwelling. They could condition the hours of operation for things related to the staging area. He said he thinks they should decide whether they are going to add the condition that once the business is sold, the conditional use permit expires. On condition #4, he would be willing to change the time.

Commissioner Villafana would be willing to change the hours on condition #4 but would want it to be seasonal. Winter and Spring would be 7 am – 6 pm; Summer and Fall would be 7 am to 7 pm.

Commissioner Amarel said he understands they can't limit personal music; but the business says they want to be friendly and a good neighbor but they aren't willing to turn down the music. That doesn't seem to be an option.

Commissioner Sheets said this is a unique piece of the county. It is an enclave and directly abutting a residential area. When he looks at the code he asks if it would be injurious to the other property in the immediate vicinity or negatively change the character of the area. The code is not asking if it would only be injurious to the County area. They could impose some conditions to remedy some of those injuries. He

understands the music issue and that it's a private residence. If the music is related to the business or being played by employees, they can condition that. If it is related to the residence, that would be a nuisance claim. He would be in support of reducing some of the injuries by reducing the hours and limiting the music related to the business. He would have to think about how to phrase that. Planning Official Dan Lister reminded the Commissioners that they are talking about the staging area; they can't condition the landscaping business or the house. It would only be applicable to the staging area. There was discussion about decibel levels, what would be measurable and how that would be enforced. Commissioner Villafana suggested Nov 1 – March 1: 7 am to 6 pm and March 1 to November 1, 7 am to 7 pm. There was discussion about using daylight savings time versus specific months. Commissioner Williamson said he agreed with Commissioner Amarel. The applicant is being an exceptional neighbor with those he shares the street with, but when a neighbor asks to turn the music down, how that is not possible. He does think they should add a condition #9; if the ownership of the property or business changes, the conditional use permit would expire. He also agreed on the changes to condition #4 (hours of operation). There was extensive discussion regarding the conditions imposed on the staging area and how that overlaps with the running of an allowed business in an agricultural zone which also has a residence onsite. Chairman Sturgill said based on the existing authorized uses, it was already having a negative impact on the immediate vicinity. There is an ongoing compliance issue with the existing uses and the applicant has indicated not granting the conditional use permit would not destroy the business. Under those circumstances, he is not inclined to increase the uses and create any future negative impact on the immediate vicinity.

MOTION: Commissioner Nevill moved to approve Case CU2022-0038 including modified Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Villafana. Roll call vote: 3 in favor, 3 opposed, motion failed.

MOTION: Commissioner Sheets made a motion to table this item for conclusion after the last agenda item. Seconded by Commissioner Nevill. Voice vote, motion passed.

- **Case No. CU2022-0037/Kevin Roberts:** The applicant, Kevin Roberts, is requesting a Conditional Use Permit to allow a Dog Kennel Use within an "A" (agricultural) zone. The dog kennel will have the ability to house a maximum of 30 dogs at a time. The subject property is located at 15368 Mink Rd., Caldwell, ID; also referenced as a portion of the NE¼ of Section 04, T4N, R3W, Canyon County, Idaho.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Kevin Roberts – Applicant (Representative) – IN FAVOR – 15368 Mink Road Caldwell ID 83605

Mr. Roberts and his wife both grew up in the Middleton and Caldwell area. He was excited when they got the property for a dog boarding facility. They dropped down from 40 to 30 dogs because they felt the 3-foot by 10-foot kennels weren't enough so they amended it to 30 dogs and are using 4-foot by 12-foot kennels. The dog runs have guillotine-style doors on a pulley system so the dogs can go in and out. He went door to door to speak to all the neighbors about this project. When they talked to the neighbors, the main concern was dogs barking so the foam was an idea to mitigate the noise. The property is only

about 50 feet from the freeway. They are starting with R21 spray foam or padded insulation which should reduce the noise, especially with the freeway noise. If there is a noise issue after that, they will get additional studio foam and put that in the kennels. The kennel floors will be sloped concrete with a trough system that runs through it. That trough system will lead to a separate animal waste septic system at it will be pressure washed twice a day. Any other waste found will be picked up. He showed an aerial photo of the property and indicated where the kennel would be located. He said they may put slats in the back fence to mitigate the view of the neighbor behind them. They want the business to look professional. When asked what the need for a kennel was, he said they also train personal protection and police dogs so they have always been around dogs and in that world. When they moved to this property, he couldn't find a place to board his dogs in Canyon County and all boarding facilities were booked out 6 months. They saw the need. He said this is for people going on vacation, moving or who have visitors allergic to dogs. Commissioner Nevill asked if he had reviewed the conditions of approval; Mr. Roberts said he read them and had a question about condition 9. There was discussion about condition 9 and if the conditional use permit could be transferrable if someone wanted to buy the property and the business. Commissioner Sheets asked if there would be any dog breeding and Mr. Roberts said no. They might add dog training but there will be no dog breeding. Commissioner Williamson asked about the insulation and if would be the same in the walls and the ceiling. Mr. Roberts said he was not the builder but he believed the insulation would be in both the walls and the ceiling. He also said that there would be a separate heating and air conditioning system so the kennel would be a temperature controlled environment. Mr. Roberts said they don't anticipate that the freeway noise will disturb the dogs. The hours of operation would be 10 am to 5 pm for drop off and pick up. The 24 hour operation is so he and his wife can clean up and taking care of the dogs after hours. The dogs will be inside by 10 pm. Commissioner Nevill about the hours of operation if there is an emergency: should they add some verbiage to the conditions regarding that? Mr. Roberts said that he felt that scenario was covered by the fact that it stated employees would be on call 24/7. Commissioner Nevill felt putting language that limited customers to only 10 am to 5 pm could pose a problem if customers come with an emergency drop off. Commissioner Sheets asked if the 6-foot fence alongside the property and the freeway would be tall enough. Mr. Roberts said he believed so as not many dogs can jump a 6-foot fence. They will be having clients fill out questionnaires and if the dog is one that jumps fences, they will be brought outside with an employee. Mr. Roberts showed the photo of the property and showed how the 6 foot fencing will be around the part of the property that houses the dogs. Commissioner Amarel asked about the number of employees Mr. Roberts would have. Mr. Roberts said at first, there will just be him and his wife, but they plan on hiring more people as they bring in more dogs. Commissioner Amarel asked if there was an existing fence separating the property from the freeway and Mr. Roberts confirmed that there was a 6-foot fence in a ditch next to the freeway.

MOTION: Commissioner Sheets moved to close public testimony on Case CU2022-0037 seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION: Commissioner Nevill suggested they change condition #4 to "all fencing around the facility" and condition #6 add "except in an emergency". On condition #9, he suggested they strike "individual" from the condition. Commissioner Williamson said he thought they would need to come in for an amendment to the conditional use permit if it was sold. Commissioner Sheets said he found that this area was more conducive for a dog kennel as it is next to a freeway.

MOTION: Commissioner Nevill moved to approve Case CU2022-0037 including modified Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Williamson. Roll call vote: 6 in favor, 0 opposed, motion passed.

REOPENED: CASE CU2022-0038 / Manuel Gutierrez

Chairman Sturgill opened up the floor for further discussion on this item. Commissioner Sheets asked how this could be potentially injurious to the area. Chairman Sturgill explained his concern was that when the applicant was told that existing uses were injurious to the neighbors, he expressed very little consideration to make modifications to the behavior under the existing uses to accommodate the neighbors' concerns. By increasing the scope of the allowed uses, they might be potentially pushing the envelope and increase the impact on adjacent properties. Commissioner Nevill asked staff, given the enforcement concerns expressed by the Director of Development Services, does it help to give the intent about why he is changing the condition? Director Minshall said the definitions written in the code is what makes it challenging. She said giving intent is always helpful in creating the record as long as they stick to what they can use to make decision criteria. Intent isn't going to help for enforcement purposes because it has to be whatever is specifically in the code but it can help as part of the findings for the decision if there is an appeal to the Board. There was additional discussion with Planning Official Dan Lister about the mitigation of impacts and adding special conditions. He said the focus should be on the conditional use permit; not the landscaping business or the single family dwelling playing the music. Commissioner Nevill said he didn't think they could mitigate the possible damage. Any of the ways they were crafting conditions for this conditional use permit would not provide protection for the neighbors because they can't do anything about the landscaping business, and single family residence was not in their purview. He was not sure he was able to vote to approve it.

Commissioner Sheets said he would have liked to see the code complaint because he felt it could have helped inform his decision to see what the issues were. He feels the overlay between the landscaping business and the staging area is razor thin. What part of the activity is related to the landscaping business and what is part is the staging business is so fuzzy that it can't be enforced. Without an enforcement mechanism, it has convinced him to change his vote.

Commissioner Amarel said the only thing they can do is limit the time, but the time is for the business and doesn't have anything to do with the staging. He clarified that he meant they could limit the time for access to the facility. Planning Official Dan Lister said the original complaint was in reference to two sheds that were built on the property without building permits and from that, they found the staging area issue.

Commissioner Villafana outlined the difficulties with separating the differences between the business storing items versus the items contained in a staging area.

Planning Official Dan Lister gave some examples of what staging areas have been in past hearings.

Commissioner Williamson wanted to state that it might have been proven that complaints were being made about noise but it wasn't proven that the business associated with the property was making the noise.

Commissioner Villafana wanted to state that even though the business hadn't been operating out of the property for very long, it is an agricultural area. The residential area approached the agricultural area; the Ag zone was there first and the landscaping business is allowed. Even though the residential area has moved in and it is injurious to them, they are operating a business that is allowed. The residential area moved into the Ag area and he felt they needed to think about that more. It is injurious to the Ag zone when residential areas move in and try to change the Agricultural area to try to suit them.

Commissioner Amarel agreed with what Commissioner Villafana said but he felt it didn't fit this case.

Commissioner Sheets felt the applicant didn't need this and without mechanisms to enforce it, he didn't feel it was necessary.

MOTION: Commissioner Nevill moved to deny Case CU2022-0038 including revised Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Amarel. Roll call vote: 5 in favor, 1 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Nevill moved to approve the minutes from 12/15/2022, seconded by Commissioner Villafana. Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Director Minshall discussed the first workshop she had with the Board of County Commissioners. The first thing the Board is interested in is the schedule and process for land use applications and hearings. They discussed concerns, solutions and using the Planning and Zoning Commission at a higher level as a screening body. She will be meeting with the new Chief Operation Officer to find out if they are going to formalize those procedures with the Legal Department and when the processes will change. She said the Development Services Department has already made some internal process changes. They had some good discussions with the Highway District staff about staff report information and turnaround time for comments. There was discussion on the time frame of posting applications online for the public and the possibilities of late exhibits during the hearing itself.

She discussed scheduling joint meetings or workshops between the Planning and Zoning Commissioners and the Board of County Commissioners and the topics of interest that could be covered including standardized conditions of approval to help the Commissioners.

Planning Official Dan Lister provided a personnel update for the Department of Development Services.

ADJOURNMENT:

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Williamson. Voice vote, motion carried. Hearing adjourned at 10:12 pm.

An audio recording is on file in the Development Services Departments' office.

Approved this 16TH day of February, 2023



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary

June 16, 2022

Canyon County Development Service Dept
111 North 11th Ave #140
Caldwell, ID 83605

To Whom It May Concern:

I would like to apply for a Conditional Use Permit for my property located at 17087 N Franklin Blvd, Nampa ID 83687. I own a small landscaping company – Progressive Lawn Care LLC. Along the side of the property, I have trees and shrubs organized in a few rows. These job materials are used for landscaping projects and we rotate them as we use them up for jobs. This area is for storage purposes only as customers or clients never visit the property. We would appreciate the opportunity to continue to use this area for materials storage for my company.

The permit that we are applying for is permitted in the zone.

The nature of the request is for storage for our small business.

The comprehensive plan is consistent with our proposed use.

The proposed use will not be injurious to any other property or will not negatively change the essential character of the area/property.

There is adequate water, sewer, irrigation, drainage, and stormwater drainage facilities to accommodate this request.

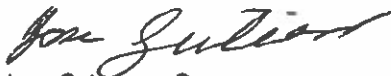
Legal access already exists for the property.

There will not be an undue interference with traffic patterns (existing or future).

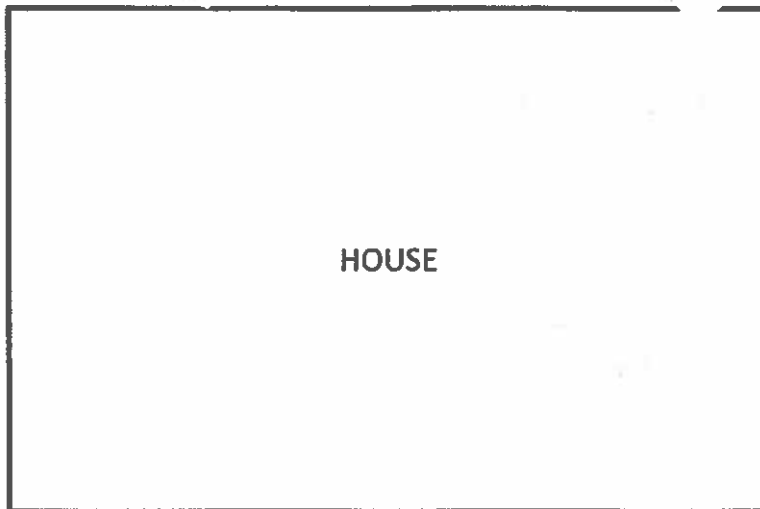
Essential services will not be necessary to accommodate this request.

Thank you for your consideration in this request.

With Regard,



Jose Gutierrez, Owner
Progressive Lawn Care LLC



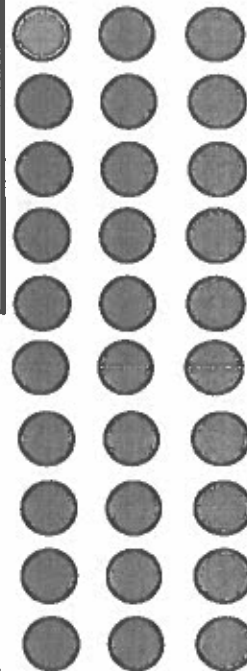
HOUSE



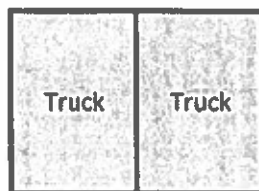
Storage Shed

Storage

Storage



Trees stored
Here



Truck

Truck



Equipment



Equipment



Equipment

Existing House / Property Landscaping:



LAND USE WORKSHEET

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #140, Caldwell, ID 83605

www.canyonco.org/dsd.aspx Phone: 208-454-7458 Fax: 208-454-6633



Required for Conditional Use Permit, Comprehensive Plan and Zoning Ordinance Amendment Applications

PLEASE CHECK ALL THAT APPLY TO YOUR REQUEST:

GENERAL INFORMATION

1. DOMESTIC WATER: ☒ Individual Domestic Well ☐ Centralized Public Water System ☐ City

☐ N/A – Explain why this is not applicable: _____

☐ How many Individual Domestic Wells are proposed? _____

2. SEWER (Wastewater) ☒ Individual Septic ☐ Centralized Sewer system

☐ N/A – Explain why this is not applicable: _____

3. IRRIGATION WATER PROVIDED VIA:

☒ Surface ☐ Irrigation Well ☐ None

4. IF IRRIGATED, PROPOSED IRRIGATION:

☐ Pressurized ☐ Gravity

5. ACCESS:

☐ Frontage ☐ Easement Easement width _____ Inst. # _____

6. INTERNAL ROADS:

☒ Public ☐ Private Road User's Maintenance Agreement Inst # _____

7. FENCING ☐ Fencing will be provided (Please show location on site plan)

Type: chainlink fencing Height: _____

8. STORMWATER: ☐ Retained on site ☐ Swales ☐ Ponds ☐ Borrow Ditches

☐ Other: _____

9. SOURCES OF SURFACE WATER ON OR NEARBY PROPERTY: (i.e. creeks, ditches, canals, lake)

None

RESIDENTIAL USES

1. NUMBER OF LOTS REQUESTED: n/a

- ☐ Residential _____ ☐ Commercial _____ ☐ Industrial _____
☐ Common _____ ☐ Non-Buildable _____

2. FIRE SUPPRESSION:

- ☐ Water supply source: _____

3. INCLUDED IN YOUR PROPOSED PLAN?

- ☐ Sidewalks ☐ Curbs ☐ Gutters ☐ Street Lights ☐ None

NON-RESIDENTIAL USES

1. SPECIFIC USE: Storage Area on side of property for trees.

2. DAYS AND HOURS OF OPERATION:

- ☐ Monday _____ to _____
☐ Tuesday _____ to _____
☐ Wednesday _____ to _____
☐ Thursday _____ to _____
☐ Friday _____ to _____
☐ Saturday _____ to _____
☐ Sunday _____ to _____

3. WILL YOU HAVE EMPLOYEES? ☒ Yes If so, how many? 8 ☐ No

4. WILL YOU HAVE A SIGN? ☐ Yes ☒ No ☐ Lighted ☐ Non-Lighted

Height: _____ ft Width: _____ ft Height above ground: _____ ft

What type of sign: _____ Wall _____ Freestanding _____ Other _____

5. PARKING AND LOADING:

How many parking spaces? A few employees leave personal vehicles parked in driveway / near driveway during the day while working

Is there is a loading or unloading area? n/a

ANIMAL CARE RELATED USES

1. MAXIMUM NUMBER OF ANIMALS: n/a

2. HOW WILL ANIMALS BE HOUSED AT THE LOCATION?

☐ Building ☐ Kennel ☐ Individual Housing ☐ Other _____

3. HOW DO YOU PROPOSE TO MITIGATE NOISE?

☐ Building ☐ Enclosure ☐ Barrier/Berm ☐ Bark Collars

4. ANIMAL WASTE DISPOSAL

☐ Individual Domestic Septic System ☐ Animal Waste Only Septic System

☐ Other: _____

MASTER APPLICATION

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #310, Caldwell, ID 83605

zoninginfo@canyoncounty.id.gov Phone: 208-454-7458 Fax: 208-454-6633



PROPERTY OWNER	OWNER NAME: Manuel Gutierrez
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 602 2211 EMAIL: mgutierrez10324@gmail.com
I consent to this application and allow DSD staff / Commissioners to enter the property for site inspections. If owner(s) are a business entity, please include business documents, including those that indicate the person(s) who are eligible to sign.	
Signature: <u>Manuel Gutierrez</u> Date: <u>2-16-23</u>	

* email has
letter L
not a 1

(AGENT) ARCHITECT ENGINEER BUILDER	CONTACT NAME: Jose Gutierrez
	COMPANY NAME: Progressive Lawn Care LLC
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 869 3334 EMAIL: progressive.lawn.care.jose@gmail.com

SITE INFO	STREET ADDRESS: 17087 N Franklin Blvd Naupa ID 83687			
	PARCEL #: R30792		LOT SIZE/AREA:	
	LOT:	BLOCK:	SUBDIVISION:	
	QUARTER:	SECTION:	TOWNSHIP:	RANGE:
	ZONING DISTRICT:		FLOODZONE (YES/NO):	

HEARING LEVEL APPS	<input checked="" type="checkbox"/> CONDITIONAL USE	<input type="checkbox"/> COMP PLAN AMENDMENT	<input type="checkbox"/> CONDITIONAL REZONE
	<input type="checkbox"/> ZONING AMENDMENT (REZONE)	<input type="checkbox"/> DEV. AGREEMENT MODIFICATION	<input type="checkbox"/> VARIANCE > 33%
	<input type="checkbox"/> MINOR REPLAT	<input type="checkbox"/> VACATION	<input type="checkbox"/> APPEAL
	<input type="checkbox"/> SHORT PLAT SUBDIVISION	<input type="checkbox"/> PRELIMINARY PLAT SUBDIVISION	<input type="checkbox"/> FINAL PLAT SUBDIVISION

DIRECTORS DECISION APPS	<input type="checkbox"/> ADMINISTRATIVE LAND DIVISION	<input type="checkbox"/> EASEMENT REDUCTION	<input type="checkbox"/> SIGN PERMIT
	<input type="checkbox"/> PROPERTY BOUNDARY ADJUSTMENT	<input type="checkbox"/> HOME BUSINESS	<input type="checkbox"/> VARIANCE 33% >
	<input type="checkbox"/> PRIVATE ROAD NAME	<input checked="" type="checkbox"/> TEMPORARY USE	<input type="checkbox"/> DAY CARE
	<input type="checkbox"/> OTHER		

CASE NUMBER: CW2022-0038-APL	DATE RECEIVED: 2/17/23
RECEIVED BY: Maddy Vander Veen	APPLICATION FEE: \$600 CK MO <u>EC</u> CASH

Revised 3/1/22

February 16, 2023

Canyon County Development Services Dept
111 North 11th Ave #310
Caldwell, ID 83605

To Whom It May Concern:

RE: Conditional Use Permit for Progressive Lawn Care LLC

We respectfully request to appeal the decision made to deny our application for a Conditional Business Use Permit. We list the following reasons why we believe the denial decision should be reversed:

- We started this process for application in June 2022. We were provided with and mailed out notices to all required neighboring homeowners on 06/21/22 and held the required public hearing 06/29/22.
- We submitted our application mid-July 2022 with the required fee and waited to hear a response.
- We received an email August 21, 2022 that one of the property owners was now opposing the conditional use permit and we were working through what options were still available. We believe the opposition arose from a personal family matter that we were able to resolve.
- On September 26, 2022 we received confirmation that that same owner who opposed the permit had changed her mind and signed off on the application. An email was received stating that the case was awaiting to be assigned.
- We sent an email a month later, October 24, 2022 to follow up because we had not heard anything. We were told that the case had not yet been assigned to a planner, but the office was trying to get things done as quickly as they could since they were understaffed.
- After a month and a half – December 15, 2022 we received notification that the case had finally been assigned to someone.
- A few days later, December 19, 2022 – we received notification that a hearing had been scheduled for January 19, 2023.
- The hearing was finally scheduled nearly 7 months after starting the process and holding the required public hearing for neighboring home owners, but we appreciated finally getting a hearing date to move forward with the application.
- The hearing was held on January 19, 2023.
- We attending the hearing as required, we spoke regarding our application, intentions for use of the property, and were willing to answer any questions.
- At the hearing, there were three or four people who spoke against our application. It is our understanding that the people were all from the same household. The members of the household live at a home across the canal and in a neighborhood located behind our property. They disagreed with the approval of the permit due to multiple instances of loud music seemingly from parties. While we understand that they have a right to complain about loud music or house parties, we were confused as to how this complaint pertained to the application

for business use of the property. We were given a chance for a response and felt that the committee acted unprofessionally for questioning us about being "good neighbors". We were approached by various people after the denial for our permit was given who were shocked and confused as to why the meeting proceeded in that manner. We believe it was confusing

- On February 8, 2023 – we reached out regarding whether an appeal would be necessary or not and were advised to wait to hear back from the department.
- On February 16, 2023 – we received an email advising us to file the appeal and that it was due the next day February 17, 2023.

We strongly believe that we did everything within our power to comply with the application process as well as any additional requests. We understand that the department being understaffed is a challenge, but contend that our application process was extended beyond a reasonable amount of time. Neighbors and homeowners possibly affected by the conditional use permit application were notified timely and we did not receive any opposition within a reasonable time frame. We have no control over if new renters or homeowners moved into neighborhoods after the required public hearing was held. The complaints that were expressed at the hearing had nothing at all to do with the business use of the property. The complaints came from neighbors who had issued with a noise complaint from a party. We do not understand how this relates to our application for approval to use the property for storage for our landscaping materials and/or machines. The temporary business use of our property is extremely important to the operations and success of our landscaping business.

We would appreciate if you would reconsider the denial of our application. The dissension that was expressed by a neighbor at the hearing resulted from a personal matter/annoyance and had nothing to do with the business located at the property.

We would also request that the \$600 fee to process this appeal/application be waived and/or refunded. We contend that the initial fee paid with the initial application in July 2022 should be sufficient as we complied with all requirements and then waited a significant period of time to have a hearing scheduled.

We are happy to provide copies of any and all email correspondence mentioned earlier in this appeal letter if it would be helpful in tracking the extended waiting period regarding our application. The employee(s) from the department were always extremely helpful and apologetic as we waited for the process to go through the required steps. The employee(s) from the department were also helpful as we were guided through the appeals process.

In conclusion, we continue to be confused as to why the denial of our application occurred due to the fact that the complaint against the conditional business use had nothing at all to do with the business. We respectfully request that our appeal be upheld, the initial decision overturned, and our application be approved.

With Regard,



Manuel Gutierrez
Home Owner



Jose Gutierrez
Business Owner



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, January 19, 2023
6:30 P.M.

1ST FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman
Brian Sheets, Vice Chairman
Patrick Williamson, Commissioner
Ron Amarel, Commissioner
Harold Nevill, Commissioner
Miguel Villafana, Commissioner

Staff Members Present: Sabrina Minshall, Director of Development Services
Dan Lister, Planning Official
Samantha Hammond, Planner
Madelyn Vander Veen, Planner
Michelle Barron, Planner
Bonnie Puleo, Recording Secretary

Chairman Robert Sturgill called the meeting to order at 6:30 p.m.

Commissioner Villafana read the testimony guidelines and proceeded to the first business item on the agenda.

MOTION: Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case CU2022-0004/Michael Rawden. Motion seconded by Commissioner Sheets. Voice vote, motion carried.

MOTION: Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case RZ2022-0011 & SD2022-0034/Sierra Vista Properties-Mint Farms Estates. Motion seconded by Commissioner Williamson. Voice vote, motion carried.

- **Case No. CR2022-0026/Stacy Woodruff:** The applicant, Stacy Woodruff, is requesting a Conditional Rezone of parcel R38194010, approximately 3.98 acres, from an "A" (Agricultural) zone to a CR-R-1 (Conditional Rezone - Single-Family Residential) zone with the intent to split the lot into three residential lots. The subject property is located at 24822 Harvey Rd, Caldwell, ID; also referenced as a portion of the NW¼ of Section 35, T5N, R3W, Canyon County, Idaho.

Declaration: Commissioner Amarel disclosed that he knew the applicant, Stacy Woodruff and has worked with him in the past but has not discussed this case with him. When asked by Commissioner Sheets if his relationship with the applicant would prevent him from making an unbiased decision in this case, he said no.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Stacy Woodruff – Applicant (Representative) – IN FAVOR – 24856 Harvey Road Caldwell ID 83607

Mr. Woodruff wanted to provide his personal story behind the parcel of land. Mr. Woodruff, his two daughters and their husbands bought the parcel together after looking at the 2020 and 2030 Comprehensive Plan, anticipating they could split it into a total of three parcels. The house on the property was built in 1971 which they have remodeled and he said their intentions are in line with what the planner stated. They will follow all agency requirements. Their neighborhood meeting did not have a big turnout but he personally went around to most of the neighbors to get to know them. Most of the neighbors have been appreciative as the property was a wreck when they purchased it and they have spent time cleaning it up. He wanted to clarify that they were not part of that prior parcel split; they bought the parcel as the 3.9 acre parcel. Commissioner Villafana asked about the small triangle of land at the top of the parcel and if he maintained it. Mr. Woodruff stated they thought of approaching the landowner of that piece and offering to buy it; there is no easement for it. Mr. Woodruff said it is kind of 'no man's land' and the person who owned it before used it for pasture/grazing. Commissioner Villafana said if they don't want to sell it, it would be important to maintain it as it could be a fire hazard. Commissioner Williamson asked why the land was considered "not farmable". Mr. Woodruff said that "unfarmable" might be a bit of an overstatement; he clarified that they wouldn't be able to make any money off it. Commissioner Nevill asked about the piping of the ditch and if they had talked to the Irrigation District about it. Mr. Woodruff said no, they hadn't but they will. He said it is a 3-foot wide canal that runs through the south of the property with an easement on both sides of it. He thinks the Irrigation District may be more concerned about the canal where it goes under Harvey Road. Commissioner Nevill felt they might be more concerned about piping the ditch to protect it and so that kids don't fall in. Commissioner Nevill asked about the firefighting plan for the three houses. Mr. Woodruff said before they can get a building permit, they will have to talk to the Fire Department and see what is required. He doesn't know what they will want but will align with them on it. Mr. Woodruff said they will also have plenty of space on the third parcel for a fire truck to be able to turn around. When asked, Mr. Woodruff said they do not have any surface water rights but they do have an irrigation well with ground water rights for the parcels. They will make sure they have an agreement in place to handle those water rights. The land will be used primarily for pasture for animals.

MOTION: Commissioner Nevill moved to close public testimony on Case CR2022-0026 seconded by Commissioner Sheets. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets said after reviewing the application and hearing the testimony, he thinks the real issue is will two additional homes on that property be more appropriate? Based on the code, the Comprehensive Plan and the character of the surrounding area, he is not opposed to having two additional homes on that parcel.

Commissioner Nevill said when he initially heard the staff report, because he has seen too many of these, it is an area that should be platted because it is going into the middle of what will become a future residential area. But after hearing testimony from the applicant, he believes Mr. Woodruff has thought it through and has plans for everything Commissioner Nevill would be concerned about so he is in support of the case.

MOTION: Commissioner Williamson moved to approve Case CR2022-0026 including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of

Canyon County Commissioners. Motion seconded by Commissioner Villafana. Roll call vote: 6 in favor, 0 opposed, motion passed.

- **Case No. CU2022-0038/Manuel Gutierrez:** The applicant, Manuel Gutierrez, is requesting a conditional use permit for a Staging Area located on parcel R30792. The requested use includes storage of landscaping materials and equipment for use off-site. The applicant has proposed 8 employees. The parcel is zoned "A" (Agricultural). The subject property is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho.

Planner Madelyn Vander Veen reviewed the Staff report for the record including one late exhibits.

Chairman Robert Sturgill entered the late exhibit into the record and affirmed the witnesses to testify.

Testimony:

Manuel Gutierrez – Applicant (Representative) – IN FAVOR – 17087 N. Franklin Blvd Nampa ID 83688

Mr. Gutierrez is the owner of the property and is also the son of the owner of the business. He is there on behalf of the business and said he is hoping to be able to stage in that location. This is not a place of business, it is a place of storage. The employees show up in the morning and go. They store their plants and trees for the (landscaping) business in the back of the property and they try to keep it neat and respectful to neighbors and traffic passing by. The property is covered by trees. They have some small machinery; mini excavators and skid-steers. Regarding the pallets, Mr. Gutierrez said they come and go. They are not there anymore. They use them for the landscaping business to move blocks and plants. He said usually there aren't that many. They haven't had any complaints from their neighbors and have even done landscaping work and snow removal for them. They have also repaired Amy Lane, the road they all use and have filled the divots with road mix to keep it clean and level as a favor to their neighbors. Commissioner Sheets clarified with the applicant that he owns the property. Commissioner Nevill said staff proposed eight conditions and asked if he agreed with all eight. Mr. Gutierrez replied, yes. He was asked if this conditional use permit was not approved, would it shut down the business. Mr. Gutierrez said no, but they would need to find another place to use as a staging area. He said he hopes they don't have to. Commissioner Williamson said he wanted to propose a condition to Mr. Gutierrez: if there is a change in the owner of the business, is he okay with having the conditional use permit expire? Mr. Gutierrez said yes, if they sold the property or business, he would agree that it should expire. He said they moved there at the end of 2020. He was asked if he has trucks delivering materials there and Mr. Gutierrez said they go out and get the materials; there are no deliveries to the property. Chairman Sturgill asked Mr. Gutierrez about some items in the photographs and if they are used for the business. Mr. Gutierrez said yes, they were used for the business and explained what the items were. Commissioner Amarel asked about the pallets. He asked if Mr. Gutierrez had a plan for tidiness of the property? Mr. Gutierrez said that pallets come and go; some are rented and the business returns those. The pots shown in the photographs are used for their plants.

Elbia Gomez – IN FAVOR – 17083 Amy Lane Nampa ID 83687

Ms. Gomez lives next door to Mr. Gutierrez. She said she has never had any problems with them. She is thankful for them, especially when it snows. She has a small car and they plow her driveway and all the other neighbors' driveways with their trucks and are very helpful. She said that is why she is in favor of this; when driving in and out, it gets pretty bad and they fix it with their equipment. She reiterated that she is right next door and has had no problems with them as her neighbors.

Bill Plumb – IN OPPOSITION – 17154 N. Lochsa Nampa ID 83087

Mr. Plumb showed where his house was on the map. He said he is inside the city limits of Nampa and not in the County. He said contrary to how this goes, he wants Mr. Gutierrez to be successful. When this started, the Fire Department sent out a notice in June of 2022, about the staging area and 8 employees. The hours will be 7 am to 7 pm. He said what they started out with is not what they ended up with now; it's something totally different. He had taken some photos of the property and provided those as an exhibit for staff. The photo was taken a little back on Franklin. He said the pallets come and go. His significant concern is for the community. The Sheriff's Department has been called at least 5 times on that property; four times by Mr. Plumb himself because of the noise. Most of the time the noise is loud music; it starts in the morning and goes all day long. It is so loud he can't close his doors and drown it out. He would like to solve the noise issue so they can sit out on their back patio and maybe/maybe not hear the music. He began documenting the number of times he has asked them to turn it down. He said there is no noise ordinance in Canyon County. He said you have until 11:00 pm to make all the noise you want. In the City of Nampa, it is 10 pm. The total lack of concern for the surrounding community is a concern; if the business is allowed to come in now there are employees and equipment. He said his last option is to say he doesn't want it (the staging business). He wants the noise to stop. He said the noise is generally after work hours and is not related to the business per say but it is the business. If they have no respect, up until a few days ago, with this permit approval process coming up and they weren't taking into consideration their neighbors, he has a concern how this will play out in the future. He understands Mr. Gutierrez is a great neighbor and he said we need people like that but he has a right to peace and quiet and the business is disrupting it badly. Mr. Plumb spoke to Mr. Gutierrez the first time in May of last year and has left several messages since then. He no longer bothers and now calls the Sheriff. They can't do anything unless he was willing to charge a misdemeanor and he is not willing to do that, but something has to give. He said it is just music from their garage. There are times when it is the equipment on the weekends. He said if this passes without something to protect the neighborhood, then they don't have to worry about making noise. They can run anything they want from 7 am to 7 pm and there is no recourse. If it is a business, it shouldn't disrupt the neighborhood. When asked about the operating hours for the conditional use permit, he said it would be more acceptable to end it at 5 pm for the overall equipment noise. Commissioner Nevill said this is a staging area, not a repair yard. They have to apply for something different for a repair shop; it is just supposed to be for parking. Planning Official Dan Lister clarified that the code allows vehicle maintenance of the homeowner's or immediate family members' own vehicles and explained the difference between a contractor shop and a staging area. Because it is an Ag area, the landscaping business is allowed. They do not have any definition in the code for a landscaping business. Chairman Sturgill clarified with Mr. Lister that they can craft the conditions of approval for the staging area only not the landscaping business or the single family residence. Commissioner Villafana said the landscaping business can run 7 days a week; the change to the hours of operation would only apply to the staging area. The landscaping business can run until they start using it for other uses (example: retail) and then it would require a conditional use permit. A landscaping business required a conditional use permit before 2012 but now it is an allowed use. Chairman Sturgill asked if there were any other concerns about the use of the property and Mr. Plumb requested that they clean up the property a little bit or organize it better.

Manuel Gutierrez – Applicant (Representative) – REBUTTAL – 17087 N. Franklin Blvd Nampa ID 83688

Mr. Gutierrez said he understood where Mr. Plumb was coming from but he felt like the noise complaint was irrelevant to what they were speaking about that night. The music could be coming from other people in the house or anywhere else. He said that Mr. Plumb was correct; the police have come multiple times to the property. They have spoken to the police and they are fine with the music. The police agreed that there is nothing wrong with it and they are free to express noise as long as it is not after 10 or 10:30 pm.

They have not broken that rule. They listen to music in their backyard. There have been times that the police have come and the noise has not been coming from them; their neighbors play music as well. They live in an agricultural area and there is animal noise and people mowing lawns. They do sometimes operate their machinery and move trees on the weekend but they do it at a respectful time; not early in the morning or late at night. They are not trying to cause a disturbance. He agrees with Mr. Plumb on the music; they are not trying to be disrespectful. It is not disrespectful music. It's a big area and sounds echo. Mr. Gutierrez feels it is irrelevant to the business. He said they do work on equipment in the garage; it is him or his father replacing tires or working on a lawnmower. They don't contract with outside people and it is a very small space. He feels they are keeping the property organized; their trucks and trees are in line. They have fencing all around the property and it is lined with tall trees. It is distant from the road. Even their pile of wood is stacked. They try to keep it up and make it presentable. Commissioner Nevill asked if the music was related to the business or to the family living there. Mr. Gutierrez said it is related to the people who are living in the home. He and the employees are gone during the day. No employees live there. Commissioner Nevill said one of the suggestions was to end the day at 5 pm. Mr. Gutierrez said changing the hours to 5 pm would be hard to do because it would be a much earlier end to the day for them. Even compromising at 6 pm, it would be hard during the summer because it doesn't get dark until 10 pm. He agrees with 7 pm because that is the hours for their employees. Commissioner Williamson asked if this would be the only staging area and Mr. Gutierrez said yes. There was some discussion about the definition of the staging area versus what the normal landscaping business would allow. Mr. Gutierrez said he understood that they couldn't stage trees or plants over the weekend in the staging area. Mr. Gutierrez, in response to some of the photos shown, said the property looks different now. He said the complaints were only about the music and it was only one person filing the complaints. It was the same police officer who came to their property to discuss the issue most times and he said if they had to lower it by law, they would. But the police officer said he was just delivering the message that they received the complaint and there was nothing he could do. It is something they have always done (playing the music) and they have never had any complaints in the past. It's nothing obnoxious and it echoes. The music is coming from the household; they have someone living with them who loves music. He said again that he feels like the music has nothing to do with the business.

MOTION: Commissioner Williamson moved to close public testimony on Case CU2022-0038 seconded by Commissioner Nevill. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill's concern was that he didn't want to put them out of business but he doesn't know what to do about this. He said he doesn't think they can do anything about the noise as it was not related to the business, it was from the family. He doesn't think they can put conditions on the noise, as it is from a single family dwelling. They could condition the hours of operation for things related to the staging area. He said he thinks they should decide whether they are going to add the condition that once the business is sold, the conditional use permit expires. On condition #4, he would be willing to change the time.

Commissioner Villafana would be willing to change the hours on condition #4 but would want it to be seasonal. Winter and Spring would be 7 am – 6 pm; Summer and Fall would be 7 am to 7 pm.

Commissioner Amarel said he understands they can't limit personal music; but the business says they want to be friendly and a good neighbor but they aren't willing to turn down the music. That doesn't seem to be an option.

Commissioner Sheets said this is a unique piece of the county. It is an enclave and directly abutting a residential area. When he looks at the code he asks if it would be injurious to the other property in the immediate vicinity or negatively change the character of the area. The code is not asking if it would only be injurious to the County area. They could impose some conditions to remedy some of those injuries. He

understands the music issue and that it's a private residence. If the music is related to the business or being played by employees, they can condition that. If it is related to the residence, that would be a nuisance claim. He would be in support of reducing some of the injuries by reducing the hours and limiting the music related to the business. He would have to think about how to phrase that. Planning Official Dan Lister reminded the Commissioners that they are talking about the staging area; they can't condition the landscaping business or the house. It would only be applicable to the staging area. There was discussion about decibel levels, what would be measurable and how that would be enforced. Commissioner Villafana suggested Nov 1 – March 1: 7 am to 6 pm and March 1 to November 1, 7 am to 7 pm. There was discussion about using daylight savings time versus specific months. Commissioner Williamson said he agreed with Commissioner Amarel. The applicant is being an exceptional neighbor with those he shares the street with, but when a neighbor asks to turn the music down, how that is not possible. He does think they should add a condition #9; if the ownership of the property or business changes, the conditional use permit would expire. He also agreed on the changes to condition #4 (hours of operation). There was extensive discussion regarding the conditions imposed on the staging area and how that overlaps with the running of an allowed business in an agricultural zone which also has a residence onsite. Chairman Sturgill said based on the existing authorized uses, it was already having a negative impact on the immediate vicinity. There is an ongoing compliance issue with the existing uses and the applicant has indicated not granting the conditional use permit would not destroy the business. Under those circumstances, he is not inclined to increase the uses and create any future negative impact on the immediate vicinity.

MOTION: Commissioner Nevill moved to approve Case CU2022-0038 including modified Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Villafana. Roll call vote: 3 in favor, 3 opposed, motion failed.

MOTION: Commissioner Sheets made a motion to table this item for conclusion after the last agenda item. Seconded by Commissioner Nevill. Voice vote, motion passed.

- **Case No. CU2022-0037/Kevin Roberts:** The applicant, Kevin Roberts, is requesting a Conditional Use Permit to allow a Dog Kennel Use within an "A" (agricultural) zone. The dog kennel will have the ability to house a maximum of 30 dogs at a time. The subject property is located at 15368 Mink Rd., Caldwell, ID; also referenced as a portion of the NE¼ of Section 04, T4N, R3W, Canyon County, Idaho.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Kevin Roberts – Applicant (Representative) – IN FAVOR – 15368 Mink Road Caldwell ID 83605

Mr. Roberts and his wife both grew up in the Middleton and Caldwell area. He was excited when they got the property for a dog boarding facility. They dropped down from 40 to 30 dogs because they felt the 3-foot by 10-foot kennels weren't enough so they amended it to 30 dogs and are using 4-foot by 12-foot kennels. The dog runs have guillotine-style doors on a pulley system so the dogs can go in and out. He went door to door to speak to all the neighbors about this project. When they talked to the neighbors, the main concern was dogs barking so the foam was an idea to mitigate the noise. The property is only

about 50 feet from the freeway. They are starting with R21 spray foam or padded insulation which should reduce the noise, especially with the freeway noise. If there is a noise issue after that, they will get additional studio foam and put that in the kennels. The kennel floors will be sloped concrete with a trough system that runs through it. That trough system will lead to a separate animal waste septic system at it will be pressure washed twice a day. Any other waste found will be picked up. He showed an aerial photo of the property and indicated where the kennel would be located. He said they may put slats in the back fence to mitigate the view of the neighbor behind them. They want the business to look professional. When asked what the need for a kennel was, he said they also train personal protection and police dogs so they have always been around dogs and in that world. When they moved to this property, he couldn't find a place to board his dogs in Canyon County and all boarding facilities were booked out 6 months. They saw the need. He said this is for people going on vacation, moving or who have visitors allergic to dogs. Commissioner Nevill asked if he had reviewed the conditions of approval; Mr. Roberts said he read them and had a question about condition 9. There was discussion about condition 9 and if the conditional use permit could be transferrable if someone wanted to buy the property and the business. Commissioner Sheets asked if there would be any dog breeding and Mr. Roberts said no. They might add dog training but there will be no dog breeding. Commissioner Williamson asked about the insulation and if would be the same in the walls and the ceiling. Mr. Roberts said he was not the builder but he believed the insulation would be in both the walls and the ceiling. He also said that there would be a separate heating and air conditioning system so the kennel would be a temperature controlled environment. Mr. Roberts said they don't anticipate that the freeway noise will disturb the dogs. The hours of operation would be 10 am to 5 pm for drop off and pick up. The 24 hour operation is so he and his wife can clean up and taking care of the dogs after hours. The dogs will be inside by 10 pm. Commissioner Nevill about the hours of operation if there is an emergency: should they add some verbiage to the conditions regarding that? Mr. Roberts said that he felt that scenario was covered by the fact that it stated employees would be on call 24/7. Commissioner Nevill felt putting language that limited customers to only 10 am to 5 pm could pose a problem if customers come with an emergency drop off. Commissioner Sheets asked if the 6-foot fence alongside the property and the freeway would be tall enough. Mr. Roberts said he believed so as not many dogs can jump a 6-foot fence. They will be having clients fill out questionnaires and if the dog is one that jumps fences, they will be brought outside with an employee. Mr. Roberts showed the photo of the property and showed how the 6 foot fencing will be around the part of the property that houses the dogs. Commissioner Amarel asked about the number of employees Mr. Roberts would have. Mr. Roberts said at first, there will just be him and his wife, but they plan on hiring more people as they bring in more dogs. Commissioner Amarel asked if there was an existing fence separating the property from the freeway and Mr. Roberts confirmed that there was a 6-foot fence in a ditch next to the freeway.

MOTION: Commissioner Sheets moved to close public testimony on Case CU2022-0037 seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION: Commissioner Nevill suggested they change condition #4 to "all fencing around the facility" and condition #6 add "except in an emergency". On condition #9, he suggested they strike "individual" from the condition. Commissioner Williamson said he thought they would need to come in for an amendment to the conditional use permit if it was sold. Commissioner Sheets said he found that this area was more conducive for a dog kennel as it is next to a freeway.

MOTION: Commissioner Nevill moved to approve Case CU2022-0037 including modified Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Williamson. Roll call vote: 6 in favor, 0 opposed, motion passed.

REOPENED: CASE CU2022-0038 / Manual Gutierrez

Chairman Sturgill opened up the floor for further discussion on this item. Commissioner Sheets asked how this could be potentially injurious to the area. Chairman Sturgill explained his concern was that when the applicant was told that existing uses were injurious to the neighbors, he expressed very little consideration to make modifications to the behavior under the existing uses to accommodate the neighbors' concerns. By increasing the scope of the allowed uses, they might be potentially pushing the envelope and increase the impact on adjacent properties. Commissioner Nevill asked staff, given the enforcement concerns expressed by the Director of Development Services, does it help to give the intent about why he is changing the condition? Director Minshall said the definitions written in the code is what makes it challenging. She said giving intent is always helpful in creating the record as long as they stick to what they can use to make decision criteria. Intent isn't going to help for enforcement purposes because it has to be whatever is specifically in the code but it can help as part of the findings for the decision if there is an appeal to the Board. There was additional discussion with Planning Official Dan Lister about the mitigation of impacts and adding special conditions. He said the focus should be on the conditional use permit; not the landscaping business or the single family dwelling playing the music. Commissioner Nevill said he didn't think they could mitigate the possible damage. Any of the ways they were crafting conditions for this conditional use permit would not provide protection for the neighbors because they can't do anything about the landscaping business, and single family residence was not in their purview. He was not sure he was able to vote to approve it.

Commissioner Sheets said he would have liked to see the code complaint because he felt it could have helped inform his decision to see what the issues were. He feels the overlay between the landscaping business and the staging area is razor thin. What part of the activity is related to the landscaping business and what is part is the staging business is so fuzzy that it can't be enforced. Without an enforcement mechanism, it has convinced him to change his vote.

Commissioner Amarel said the only thing they can do is limit the time, but the time is for the business and doesn't have anything to do with the staging. He clarified that he meant they could limit the time for access to the facility. Planning Official Dan Lister said the original complaint was in reference to two sheds that were built on the property without building permits and from that, they found the staging area issue.

Commissioner Villafana outlined the difficulties with separating the differences between the business storing items versus the items contained in a staging area.

Planning Official Dan Lister gave some examples of what staging areas have been in past hearings.

Commissioner Williamson wanted to state that it might have been proven that complaints were being made about noise but it wasn't proven that the business associated with the property was making the noise.

Commissioner Villafana wanted to state that even though the business hadn't been operating out of the property for very long, it is an agricultural area. The residential area approached the agricultural area; the Ag zone was there first and the landscaping business is allowed. Even though the residential area has moved in and it is injurious to them, they are operating a business that is allowed. The residential area moved into the Ag area and he felt they needed to think about that more. It is injurious to the Ag zone when residential areas move in and try to change the Agricultural area to try to suit them.

Commissioner Amarel agreed with what Commissioner Villafana said but he felt it didn't fit this case.

Commissioner Sheets felt the applicant didn't need this and without mechanisms to enforce it, he didn't feel it was necessary.

MOTION: Commissioner Nevill moved to deny Case CU2022-0038 including revised Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Amarel. Roll call vote: 5 in favor, 1 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Nevill moved to approve the minutes from 12/15/2022, seconded by Commissioner Villafana. Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Director Minshall discussed the first workshop she had with the Board of County Commissioners. The first thing the Board is interested in is the schedule and process for land use applications and hearings. They discussed concerns, solutions and using the Planning and Zoning Commission at a higher level as a screening body. She will be meeting with the new Chief Operation Officer to find out if they are going to formalize those procedures with the Legal Department and when the processes will change. She said the Development Services Department has already made some internal process changes. They had some good discussions with the Highway District staff about staff report information and turnaround time for comments. There was discussion on the time frame of posting applications online for the public and the possibilities of late exhibits during the hearing itself.

She discussed scheduling joint meetings or workshops between the Planning and Zoning Commissioners and the Board of County Commissioners and the topics of interest that could be covered including standardized conditions of approval to help the Commissioners.

Planning Official Dan Lister provided a personnel update for the Department of Development Services.

ADJOURNMENT:

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Williamson. Voice vote, motion carried. Hearing adjourned at 10:12 pm.

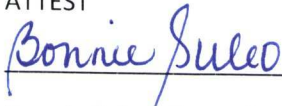
An audio recording is on file in the Development Services Departments' office.

Approved this 16TH day of February, 2023



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary



Findings of Fact, Conclusions of Law, Conditions of Approval and Order

Conditional Use Permit - CU2022-0038

Findings of Fact

1. The applicants, Krista O'Dell & Jose Gutierrez, representing Manuel Gutierrez, are requesting a conditional use permit for a Staging Area located on parcel R30792. The application was submitted on August 11, 2022.
2. The property is zoned "A" (Agricultural).
3. The subject parcel, R30792, is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho; and is approximately 1.59 acres in size.
4. The property is located within the Nampa City Impact Area.
5. Parcel R30792 has frontage along Franklin Blvd, a public road.
6. The property is located within the Nampa Fire District. No comments were received from that district.
7. A neighborhood meeting was conducted on June 29, 2022 in accordance with CCZO §07-01-15(1).
8. The request was noticed/published in accordance with Canyon County Code §07-05-01. Property owners within 600 feet of the property boundaries were noticed on December 29, 2022. Agencies were noticed on December 19, 2022. Newspaper notice was published on January 3, 2023. The property was posted on January 10, 2023.
9. All recorded herein consists of exhibits provided in the public hearing staff report, testimony and exhibits provided during the public hearing on January 19, 2023 and all information in case file CU2022-0038.

Conclusions of Law

For case file CU2022-0038, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (CCZO §07-07-05):

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The proposed use is permitted in the zone by conditional use permit.

Finding: The parcel is zoned "A" (Agricultural). Pursuant to CCZO §07-10-27, staging areas are allowed in the "A" (Agricultural) Zone subject to a conditional use permit. The applicants submitted a conditional use permit application on August 11, 2022 in accordance with CCZO §07-07-03.

2. What is the nature of the request?

The applicant is requesting a Staging Area within an "A" (Agricultural) Zone. The use will be contained within the 1.59-acre parcel which has frontage on Franklin Blvd, a public road.

The applicant's letter of intent and land use worksheet states the request is to use the property along the side and front for storage of trees, shrubs, equipment, and trucks for Progressive Lawn Care LLC. There are 8 employees who may come to the property to pick up or drop off materials. Hours of operation will not exceed 7am to 7pm, Monday through Friday. The proposed location of the staging area, east of the house, is hard-surfaced with gravel. Existing trees block site of the use from Franklin Blvd and properties to the south. The use does not include a sign.

3. Is the proposed use consistent with the Comprehensive Plan?

Conclusion: The proposed use is consistent with the Comprehensive Plan.

Finding: The subject property is designated as "Residential" on the future land use plan within the 2020 Canyon County Comprehensive Plan. The use is consistent with the following Canyon County Comprehensive Plan policies:

- Property Rights Policy No. 1: *"No person shall be deprived of private property without due process of law."*
- Property Rights Policy No. 11: *"Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods."*
- Population Goal No. 2: *"To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs."*
- Economic Development Policy No. 2: *"Support existing business and industry in the county."*
- Land Use Goal No 2: *"To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area."*
- Land Use Goal No. 3: *"Use appropriate techniques to mitigate incompatible land uses."*

4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: The proposed will be injurious to other property in the immediate vicinity. It will not negatively change the essential character of the area.

Finding: The proposed use will be injurious to other property in the vicinity according to public testimony. No conditions would be sufficient to mitigate all harm to neighbors. It will not negatively change the essential character of the area.

5. Will adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems be provided to accommodate the use;

Conclusion: The property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

Finding: Based on the applicant's letter of intent and land use worksheet, the property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

6. Does legal access to the subject property for the development exist or will it exist at the time of final plat;

Conclusion: Legal access does currently exist.

Finding: The property has access onto N Franklin Blvd which is a public road. No new access points are proposed. Nampa Engineering Division has jurisdiction over the road and did not comment on access.

7. Will there be undue interference with existing or future traffic patterns?

Conclusion: There will not be undue interference with existing or future traffic patterns.

Finding: Nampa Highway District, Idaho Transportation Department, and Nampa Highway District each provided an email stating they have no comments. The proposed use is not expected to generate enough traffic to require a traffic impact study, or to negatively affect existing traffic patterns.

Employees may enter and exit the property from 7 am to 7 pm, Monday-Friday. The staging area includes space for parking on site with gravel surface. All applicable off-street parking requirements shall meet CCZO Section 07-13-01 and 07-13-03.

8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conclusion: Necessary essential services will be provided to accommodate the use. The use is not anticipated to impact essential services or require additional public funding.

Finding: The parcel is in the Nampa Fire District. The use is not anticipated to impact essential services or require additional public funding. All essential services were notified of the proposed use. No agency comments were received to indicate that there would be an impact to essential services.

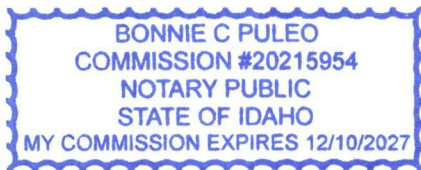
Order

Based upon the Findings of Fact, Conclusions of Law and Conditions of Approval enumerated above, the Planning and Zoning Commission **denies** Case CU2022-0038, a request for a Conditional Use Permit to allow a staging area on tax parcel R30792.

Pursuant to Idaho Code Section 67-6519, the following actions may be taken to obtain approval:

- There are no actions the applicant can take to obtain approval.

DENIED this 2nd day of February, 2023.



PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

A handwritten signature in blue ink, appearing to read "Brian Sheets".

Brian Sheets, Acting Chairman

State of Idaho)

SS

County of Canyon County)

On this 2nd day of February, in the year of 2023, before me Bonnie Puleo, a notary public, personally appeared Brian Sheets, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: _____

A handwritten signature in blue ink, appearing to read "Bonnie C. Puleo".

My Commission Expires: _____

12/10/2027



BOARD OF COUNTY COMMISSIONERS

STAFF REPORT ADDENDUM

CU2022-0038-APL

HEARING DATE: May 31, 2023

OWNERS: Manuel Gutierrez,
Alexa Gutierrez, &
Elbia Limon

APPLICANT/REP: Jose Gutierrez

PLANNER: Madelyn Vander Veen,
Planner I

CASE NUMBER: CU2022-0038-APL



EXECUTIVE SUMMARY:

- The appellant, Manuel Gutierrez, is appealing the Planning and Zoning Commission's denial of a conditional use permit for a Staging Area located on parcel R30792. The requested use includes storage of landscaping materials and equipment for use off-site. The applicant has proposed 8 employees. The parcel is zoned "A" (Agricultural).
- The subject property is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho.
- On February 2, 2023, the Planning & Zoning Commission denied the request.
- There was confusion at the Planning & Zoning hearing due to part of the Canyon County Ordinance which is planned to be revised in the future. It can be argued that the proposed use is both a "Staging Area" and "Landscape Business". Both these uses are in the Land Use Regulations (Matrix) (§07-10-27), but a Staging Area requires a Conditional Use Permit while a Landscape Business is an allowed use in the "A" (Agricultural) zone. Staging Area is defined in the code (§07-02-03) and Landscape Business is not.

Originally, this case was initiated due to a code enforcement complaint against the applicant. A Conditional Use Permit may be needed since the use does fit the Staging Area definition, but it could be a matter of interpretation. This has been recognized by staff as part of the code which will need to be revised in the future. For this case, code enforcement staff recommended that the applicant submit the original case and the subsequent appeal out of an abundance of caution.

- On February 17, 2023, Manuel & Jose Gutierrez submitted an appeal with a letter explaining the reasons for requesting the decision to be overturned (Exhibit A, Attachment 4).
- One agency comment and one public comment were received after the Planning & Zoning Commission hearing (Exhibits C1 and C2).

EXHIBITS:

Exhibit A: Draft BOCC FCOs

Attachment 1: Signed Findings of Fact, Conclusions of Law, and Order – Planning & Zoning Commission

Attachment 2: Minutes – Planning & Zoning Commission

Attachment 3: Letter of Intent, Site Plan, Land Use Worksheet

Attachment 4: Appeal Application

Exhibit B: Staff Report – Planning & Zoning Commission

Exhibit 1: Draft FCOs

Attachment A: Letter of Intent, Site Plan, Land Use Worksheet

Exhibit 2: Neighborhood Meeting

Exhibit 3: Maps

3a: Aerial

3b: Vicinity

3c: Zoning

3d: Case Map & Report

3e: Future Land Use

3f: Nampa Future Land Use

3g: Nitrate Priority Area

Exhibit 4: Agency Comments

4a: Nampa Engineering Division

4b: Idaho Transportation Department

4c: Nampa Highway District

4d: Canyon County Code Enforcement

Exhibit C: Comments received after P&Z hearing:

C1: Nampa Planning & Zoning

C2: Daniel Gramarossa



BOARD OF COUNTY COMMISSIONERS
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Gutierrez – CU2022-0038-APL

The Canyon County Board of County Commissioners consider the following:

- 1) Appeal (CUP)
CU2022-0038-APL, 17087 N Franklin Blvd, Nampa ID 83687 (Parcel Number: R30792), a portion of the SE¼ of Section 03, T3N, R2W, BM, Canyon County, Idaho

Summary of the Record

1. The record is comprised of the following:
 - A. The record includes all testimony, the staff report, exhibits, and documents in Case File CU2022-0038-APL.
 - B. Findings of Fact, Conclusions of Law and Order signed by the Planning and Zoning Commission on February 2, 2023. *See* Attachment 1.
 - C. An appeal filed by Manuel & Jose Gutierrez was submitted on February 17, 2023 pursuant to Canyon County Code §07-05-07. *See* Attachment 4.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Canyon County Code §07-14 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-11-25 (Area of City Impact Agreement).
 - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
 - b. The decisions of the commission or the hearing examiner may be appealed to the board by filing a written notice of appeal with DSD within fifteen (15) calendar days of the date the FCOs were signed. The notice of appeal should include a statement of the reasons for the appeal and must be accompanied by a filing fee as established by the adopted fee schedule. *See* CCZO §07-05-05.
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6512.
3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504.
4. The Board can sustain, modify or reject the Commission’s recommendations. *See* CCZO §07-05-03.
5. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code § 67-6512.
6. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is

maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. Idaho Code § 67-6512.

7. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
8. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
9. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO §07-05-03(1)(I).

The appeal of Case CU2022-0038 was presented at a public hearing before the Canyon County Board of County Commissioners on May 31, 2023. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board of County Commissioners decides as follows:

FINDINGS OF FACT & CONCLUSION OF LAW

- (1) The applicant filed an appeal to Case CU2022-0038 on February 17, 2023 pursuant to Canyon County Code §07-05-05 asking the Board of County Commissioners ("Board") to overturn the findings signed by the Planning and Zoning Commission.
- (2) The Board reviewed the Planning and Zoning Commission's written findings (Attachment 1), testimony (Attachment 2), and evidence presented in the public hearings on the application.
 - a. The Board finds that criteria 1, 2, 3, 5, 6, 7, and 8 from the findings of fact decided by the Planning and Zoning Commission in Attachment 1 are adequately supported by evidence demonstrating consistency with the required criteria pursuant to CCZO §07-07-05.
 - b. The Board finds the findings of fact decided by the Planning and Zoning Commission (Attachment 1) are not adequately supported by evidence; and therefore, the following criteria pursuant to CCZO §07-07-05 have been met and will be amended as follows:

Criteria 4: Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: The proposed use will not be injurious to other property in the immediate vicinity and will not negatively change the essential character of the area.

Findings: No evidence has been provided that the proposed use would be injurious to other property in the vicinity nor will it negatively change the essential character of the area. Impacts due to the existing allowed uses on the property including the single-family dwelling and landscape business cannot be considered because they are already allowed in the "A" (Agricultural) zone and are not part of the proposed use. To minimize potential impacts to existing and future uses in the area, conditions of approval are included.

- (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 14 and April 19, 2023. Newspaper notice was published on April 20, 2023. Property owners within 600' were notified by mail on April 19, 2023. The property was posted on April 27, 2023.
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0038-APL.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **approve** the appeal of Case #: CU2022-0038-APL **approving** the conditional use permit for a Staging Area on parcel R30792 subject to the following conditions as enumerated:

Conditions of Approval:

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the subject property and the proposed use.
2. Historic irrigation lateral, drain, ditch flow patterns and associated easements shall be maintained and protected unless approved in writing by the local irrigation district or ditch company.
3. The facility shall be developed in general conformance with the Letter of Intent and Site Plan (Attachment 3).
4. Hours of operation shall not exceed 7:00 a.m. to 7:00 p.m., Monday through Friday. "Operation" is defined as movement of materials and employees not living on the property to and from the property.
5. All employee and business vehicles shall be parked on-site. Employee parking is prohibited on the public right-of-way.
6. Existing site-obscuring landscaping around the perimeter of the property shall be maintained.
7. Structures and fences shall be maintained in good repair. Equipment, weeds and trash shall be maintained so as not to become a public nuisance (Canyon County Code §02-01-05).
8. All exterior lighting shall be downward facing and directed away from adjacent properties.

Pursuant to Section 67-6535 of the Idaho Code, the applicant has 14 days from the date of the final decision to seek reconsideration before seeking judicial review.

DATED this _____ day of _____, 2023.

CANYON COUNTY BOARD OF COMMISSIONERS

_____ Motion Carried Unanimously
_____ Motion Carried/Split Vote Below
_____ Motion Defeated/Split Vote Below

	Yes	No	Did Not Vote
_____ Commissioner Leslie Van Beek	_____	_____	_____
_____ Commissioner Brad Holton	_____	_____	_____
_____ Commissioner Zach Brooks	_____	_____	_____

Attest: Chris Yamamoto, Clerk

By: _____
Deputy

Date: _____



Findings of Fact, Conclusions of Law, Conditions of Approval and Order

Conditional Use Permit - CU2022-0038

Findings of Fact

1. The applicants, Krista O'Dell & Jose Gutierrez, representing Manuel Gutierrez, are requesting a conditional use permit for a Staging Area located on parcel R30792. The application was submitted on August 11, 2022.
2. The property is zoned "A" (Agricultural).
3. The subject parcel, R30792, is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho; and is approximately 1.59 acres in size.
4. The property is located within the Nampa City Impact Area.
5. Parcel R30792 has frontage along Franklin Blvd, a public road.
6. The property is located within the Nampa Fire District. No comments were received from that district.
7. A neighborhood meeting was conducted on June 29, 2022 in accordance with CCZO §07-01-15(1).
8. The request was noticed/published in accordance with Canyon County Code §07-05-01. Property owners within 600 feet of the property boundaries were noticed on December 29, 2022. Agencies were noticed on December 19, 2022. Newspaper notice was published on January 3, 2023. The property was posted on January 10, 2023.
9. All recorded herein consists of exhibits provided in the public hearing staff report, testimony and exhibits provided during the public hearing on January 19, 2023 and all information in case file CU2022-0038.

Conclusions of Law

For case file CU2022-0038, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (CCZO §07-07-05):

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The proposed use is permitted in the zone by conditional use permit.

Finding: The parcel is zoned "A" (Agricultural). Pursuant to CCZO §07-10-27, staging areas are allowed in the "A" (Agricultural) Zone subject to a conditional use permit. The applicants submitted a conditional use permit application on August 11, 2022 in accordance with CCZO §07-07-03.

2. What is the nature of the request?

The applicant is requesting a Staging Area within an "A" (Agricultural) Zone. The use will be contained within the 1.59-acre parcel which has frontage on Franklin Blvd, a public road.

The applicant's letter of intent and land use worksheet states the request is to use the property along the side and front for storage of trees, shrubs, equipment, and trucks for Progressive Lawn Care LLC. There are 8 employees who may come to the property to pick up or drop off materials. Hours of operation will not exceed 7am to 7pm, Monday through Friday. The proposed location of the staging area, east of the house, is hard-surfaced with gravel. Existing trees block site of the use from Franklin Blvd and properties to the south. The use does not include a sign.

3. Is the proposed use consistent with the Comprehensive Plan?

Conclusion: The proposed use is consistent with the Comprehensive Plan.

Finding: The subject property is designated as "Residential" on the future land use plan within the 2020 Canyon County Comprehensive Plan. The use is consistent with the following Canyon County Comprehensive Plan policies:

- Property Rights Policy No. 1: *"No person shall be deprived of private property without due process of law."*
- Property Rights Policy No. 11: *"Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods."*
- Population Goal No. 2: *"To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs."*
- Economic Development Policy No. 2: *"Support existing business and industry in the county."*
- Land Use Goal No 2: *"To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area."*
- Land Use Goal No. 3: *"Use appropriate techniques to mitigate incompatible land uses."*

4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: The proposed will be injurious to other property in the immediate vicinity. It will not negatively change the essential character of the area.

Finding: The proposed use will be injurious to other property in the vicinity according to public testimony. No conditions would be sufficient to mitigate all harm to neighbors. It will not negatively change the essential character of the area.

5. Will adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems be provided to accommodate the use;

Conclusion: The property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

Finding: Based on the applicant's letter of intent and land use worksheet, the property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

6. Does legal access to the subject property for the development exist or will it exist at the time of final plat;

Conclusion: Legal access does currently exist.

Finding: The property has access onto N Franklin Blvd which is a public road. No new access points are proposed. Nampa Engineering Division has jurisdiction over the road and did not comment on access.

7. Will there be undue interference with existing or future traffic patterns?

Conclusion: There will not be undue interference with existing or future traffic patterns.

Finding: Nampa Highway District, Idaho Transportation Department, and Nampa Highway District each provided an email stating they have no comments. The proposed use is not expected to generate enough traffic to require a traffic impact study, or to negatively affect existing traffic patterns.

Employees may enter and exit the property from 7 am to 7 pm, Monday-Friday. The staging area includes space for parking on site with gravel surface. All applicable off-street parking requirements shall meet CCZO Section 07-13-01 and 07-13-03.

8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conclusion: Necessary essential services will be provided to accommodate the use. The use is not anticipated to impact essential services or require additional public funding.

Finding: The parcel is in the Nampa Fire District. The use is not anticipated to impact essential services or require additional public funding. All essential services were notified of the proposed use. No agency comments were received to indicate that there would be an impact to essential services.

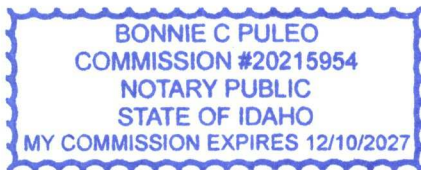
Order

Based upon the Findings of Fact, Conclusions of Law and Conditions of Approval enumerated above, the Planning and Zoning Commission **denies** Case CU2022-0038, a request for a Conditional Use Permit to allow a staging area on tax parcel R30792.

Pursuant to Idaho Code Section 67-6519, the following actions may be taken to obtain approval:

- There are no actions the applicant can take to obtain approval.

DENIED this 2nd day of February, 2023.



PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

A handwritten signature in blue ink, appearing to read "Brian Sheets".

Brian Sheets, Acting Chairman

State of Idaho)

SS

County of Canyon County)

On this 2nd day of February, in the year of 2023, before me Bonnie Puleo, a notary public, personally appeared Brian Sheets, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: _____

A handwritten signature in blue ink, appearing to read "Bonnie C. Puleo".

My Commission Expires: _____

12/10/2027



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Thursday, January 19, 2023
6:30 P.M.

1ST FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman
Brian Sheets, Vice Chairman
Patrick Williamson, Commissioner
Ron Amarel, Commissioner
Harold Nevill, Commissioner
Miguel Villafana, Commissioner

Staff Members Present: Sabrina Minshall, Director of Development Services
Dan Lister, Planning Official
Samantha Hammond, Planner
Madelyn Vander Veen, Planner
Michelle Barron, Planner
Bonnie Puleo, Recording Secretary

Chairman Robert Sturgill called the meeting to order at 6:30 p.m.

Commissioner Villafana read the testimony guidelines and proceeded to the first business item on the agenda.

MOTION: Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case CU2022-0004/Michael Rawden. Motion seconded by Commissioner Sheets. Voice vote, motion carried.

MOTION: Commissioner Nevill moved to approve & sign the revised Findings of Facts, Conclusions of Law and Conditions of Approval for Case RZ2022-0011 & SD2022-0034/Sierra Vista Properties-Mint Farms Estates. Motion seconded by Commissioner Williamson. Voice vote, motion carried.

- **Case No. CR2022-0026/Stacy Woodruff:** The applicant, Stacy Woodruff, is requesting a Conditional Rezone of parcel R38194010, approximately 3.98 acres, from an "A" (Agricultural) zone to a CR-R-1 (Conditional Rezone - Single-Family Residential) zone with the intent to split the lot into three residential lots. The subject property is located at 24822 Harvey Rd, Caldwell, ID; also referenced as a portion of the NW¼ of Section 35, T5N, R3W, Canyon County, Idaho.

Declaration: Commissioner Amarel disclosed that he knew the applicant, Stacy Woodruff and has worked with him in the past but has not discussed this case with him. When asked by Commissioner Sheets if his relationship with the applicant would prevent him from making an unbiased decision in this case, he said no.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Stacy Woodruff – Applicant (Representative) – IN FAVOR – 24856 Harvey Road Caldwell ID 83607

Mr. Woodruff wanted to provide his personal story behind the parcel of land. Mr. Woodruff, his two daughters and their husbands bought the parcel together after looking at the 2020 and 2030 Comprehensive Plan, anticipating they could split it into a total of three parcels. The house on the property was built in 1971 which they have remodeled and he said their intentions are in line with what the planner stated. They will follow all agency requirements. Their neighborhood meeting did not have a big turnout but he personally went around to most of the neighbors to get to know them. Most of the neighbors have been appreciative as the property was a wreck when they purchased it and they have spent time cleaning it up. He wanted to clarify that they were not part of that prior parcel split; they bought the parcel as the 3.9 acre parcel. Commissioner Villafana asked about the small triangle of land at the top of the parcel and if he maintained it. Mr. Woodruff stated they thought of approaching the landowner of that piece and offering to buy it; there is no easement for it. Mr. Woodruff said it is kind of 'no man's land' and the person who owned it before used it for pasture/grazing. Commissioner Villafana said if they don't want to sell it, it would be important to maintain it as it could be a fire hazard. Commissioner Williamson asked why the land was considered "not farmable". Mr. Woodruff said that "unfarmable" might be a bit of an overstatement; he clarified that they wouldn't be able to make any money off it. Commissioner Nevill asked about the piping of the ditch and if they had talked to the Irrigation District about it. Mr. Woodruff said no, they hadn't but they will. He said it is a 3-foot wide canal that runs through the south of the property with an easement on both sides of it. He thinks the Irrigation District may be more concerned about the canal where it goes under Harvey Road. Commissioner Nevill felt they might be more concerned about piping the ditch to protect it and so that kids don't fall in. Commissioner Nevill asked about the firefighting plan for the three houses. Mr. Woodruff said before they can get a building permit, they will have to talk to the Fire Department and see what is required. He doesn't know what they will want but will align with them on it. Mr. Woodruff said they will also have plenty of space on the third parcel for a fire truck to be able to turn around. When asked, Mr. Woodruff said they do not have any surface water rights but they do have an irrigation well with ground water rights for the parcels. They will make sure they have an agreement in place to handle those water rights. The land will be used primarily for pasture for animals.

MOTION: Commissioner Nevill moved to close public testimony on Case CR2022-0026 seconded by Commissioner Sheets. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets said after reviewing the application and hearing the testimony, he thinks the real issue is will two additional homes on that property be more appropriate? Based on the code, the Comprehensive Plan and the character of the surrounding area, he is not opposed to having two additional homes on that parcel.

Commissioner Nevill said when he initially heard the staff report, because he has seen too many of these, it is an area that should be platted because it is going into the middle of what will become a future residential area. But after hearing testimony from the applicant, he believes Mr. Woodruff has thought it through and has plans for everything Commissioner Nevill would be concerned about so he is in support of the case.

MOTION: Commissioner Williamson moved to approve Case CR2022-0026 including the Findings of Facts, Conclusions of Law and Conditions of Approval, forwarding the recommendation to the Board of

Canyon County Commissioners. Motion seconded by Commissioner Villafana. Roll call vote: 6 in favor, 0 opposed, motion passed.

- **Case No. CU2022-0038/Manuel Gutierrez:** The applicant, Manuel Gutierrez, is requesting a conditional use permit for a Staging Area located on parcel R30792. The requested use includes storage of landscaping materials and equipment for use off-site. The applicant has proposed 8 employees. The parcel is zoned "A" (Agricultural). The subject property is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho.

Planner Madelyn Vander Veen reviewed the Staff report for the record including one late exhibits.

Chairman Robert Sturgill entered the late exhibit into the record and affirmed the witnesses to testify.

Testimony:

Manuel Gutierrez – Applicant (Representative) – IN FAVOR – 17087 N. Franklin Blvd Nampa ID 83688

Mr. Gutierrez is the owner of the property and is also the son of the owner of the business. He is there on behalf of the business and said he is hoping to be able to stage in that location. This is not a place of business, it is a place of storage. The employees show up in the morning and go. They store their plants and trees for the (landscaping) business in the back of the property and they try to keep it neat and respectful to neighbors and traffic passing by. The property is covered by trees. They have some small machinery; mini excavators and skid-steers. Regarding the pallets, Mr. Gutierrez said they come and go. They are not there anymore. They use them for the landscaping business to move blocks and plants. He said usually there aren't that many. They haven't had any complaints from their neighbors and have even done landscaping work and snow removal for them. They have also repaired Amy Lane, the road they all use and have filled the divots with road mix to keep it clean and level as a favor to their neighbors. Commissioner Sheets clarified with the applicant that he owns the property. Commissioner Nevill said staff proposed eight conditions and asked if he agreed with all eight. Mr. Gutierrez replied, yes. He was asked if this conditional use permit was not approved, would it shut down the business. Mr. Gutierrez said no, but they would need to find another place to use as a staging area. He said he hopes they don't have to. Commissioner Williamson said he wanted to propose a condition to Mr. Gutierrez: if there is a change in the owner of the business, is he okay with having the conditional use permit expire? Mr. Gutierrez said yes, if they sold the property or business, he would agree that it should expire. He said they moved there at the end of 2020. He was asked if he has trucks delivering materials there and Mr. Gutierrez said they go out and get the materials; there are no deliveries to the property. Chairman Sturgill asked Mr. Gutierrez about some items in the photographs and if they are used for the business. Mr. Gutierrez said yes, they were used for the business and explained what the items were. Commissioner Amarel asked about the pallets. He asked if Mr. Gutierrez had a plan for tidiness of the property? Mr. Gutierrez said that pallets come and go; some are rented and the business returns those. The pots shown in the photographs are used for their plants.

Elbia Gomez – IN FAVOR – 17083 Amy Lane Nampa ID 83687

Ms. Gomez lives next door to Mr. Gutierrez. She said she has never had any problems with them. She is thankful for them, especially when it snows. She has a small car and they plow her driveway and all the other neighbors' driveways with their trucks and are very helpful. She said that is why she is in favor of this; when driving in and out, it gets pretty bad and they fix it with their equipment. She reiterated that she is right next door and has had no problems with them as her neighbors.

Bill Plumb – IN OPPOSITION – 17154 N. Lochsa Nampa ID 83087

Mr. Plumb showed where his house was on the map. He said he is inside the city limits of Nampa and not in the County. He said contrary to how this goes, he wants Mr. Gutierrez to be successful. When this started, the Fire Department sent out a notice in June of 2022, about the staging area and 8 employees. The hours will be 7 am to 7 pm. He said what they started out with is not what they ended up with now; it's something totally different. He had taken some photos of the property and provided those as an exhibit for staff. The photo was taken a little back on Franklin. He said the pallets come and go. His significant concern is for the community. The Sheriff's Department has been called at least 5 times on that property; four times by Mr. Plumb himself because of the noise. Most of the time the noise is loud music; it starts in the morning and goes all day long. It is so loud he can't close his doors and drown it out. He would like to solve the noise issue so they can sit out on their back patio and maybe/maybe not hear the music. He began documenting the number of times he has asked them to turn it down. He said there is no noise ordinance in Canyon County. He said you have until 11:00 pm to make all the noise you want. In the City of Nampa, it is 10 pm. The total lack of concern for the surrounding community is a concern; if the business is allowed to come in now there are employees and equipment. He said his last option is to say he doesn't want it (the staging business). He wants the noise to stop. He said the noise is generally after work hours and is not related to the business per say but it is the business. If they have no respect, up until a few days ago, with this permit approval process coming up and they weren't taking into consideration their neighbors, he has a concern how this will play out in the future. He understands Mr. Gutierrez is a great neighbor and he said we need people like that but he has a right to peace and quiet and the business is disrupting it badly. Mr. Plumb spoke to Mr. Gutierrez the first time in May of last year and has left several messages since then. He no longer bothers and now calls the Sheriff. They can't do anything unless he was willing to charge a misdemeanor and he is not willing to do that, but something has to give. He said it is just music from their garage. There are times when it is the equipment on the weekends. He said if this passes without something to protect the neighborhood, then they don't have to worry about making noise. They can run anything they want from 7 am to 7 pm and there is no recourse. If it is a business, it shouldn't disrupt the neighborhood. When asked about the operating hours for the conditional use permit, he said it would be more acceptable to end it at 5 pm for the overall equipment noise. Commissioner Nevill said this is a staging area, not a repair yard. They have to apply for something different for a repair shop; it is just supposed to be for parking. Planning Official Dan Lister clarified that the code allows vehicle maintenance of the homeowner's or immediate family members' own vehicles and explained the difference between a contractor shop and a staging area. Because it is an Ag area, the landscaping business is allowed. They do not have any definition in the code for a landscaping business. Chairman Sturgill clarified with Mr. Lister that they can craft the conditions of approval for the staging area only not the landscaping business or the single family residence. Commissioner Villafana said the landscaping business can run 7 days a week; the change to the hours of operation would only apply to the staging area. The landscaping business can run until they start using it for other uses (example: retail) and then it would require a conditional use permit. A landscaping business required a conditional use permit before 2012 but now it is an allowed use. Chairman Sturgill asked if there were any other concerns about the use of the property and Mr. Plumb requested that they clean up the property a little bit or organize it better.

Manuel Gutierrez – Applicant (Representative) – REBUTTAL – 17087 N. Franklin Blvd Nampa ID 83688

Mr. Gutierrez said he understood where Mr. Plumb was coming from but he felt like the noise complaint was irrelevant to what they were speaking about that night. The music could be coming from other people in the house or anywhere else. He said that Mr. Plumb was correct; the police have come multiple times to the property. They have spoken to the police and they are fine with the music. The police agreed that there is nothing wrong with it and they are free to express noise as long as it is not after 10 or 10:30 pm.

They have not broken that rule. They listen to music in their backyard. There have been times that the police have come and the noise has not been coming from them; their neighbors play music as well. They live in an agricultural area and there is animal noise and people mowing lawns. They do sometimes operate their machinery and move trees on the weekend but they do it at a respectful time; not early in the morning or late at night. They are not trying to cause a disturbance. He agrees with Mr. Plumb on the music; they are not trying to be disrespectful. It is not disrespectful music. It's a big area and sounds echo. Mr. Gutierrez feels it is irrelevant to the business. He said they do work on equipment in the garage; it is him or his father replacing tires or working on a lawnmower. They don't contract with outside people and it is a very small space. He feels they are keeping the property organized; their trucks and trees are in line. They have fencing all around the property and it is lined with tall trees. It is distant from the road. Even their pile of wood is stacked. They try to keep it up and make it presentable. Commissioner Nevill asked if the music was related to the business or to the family living there. Mr. Gutierrez said it is related to the people who are living in the home. He and the employees are gone during the day. No employees live there. Commissioner Nevill said one of the suggestions was to end the day at 5 pm. Mr. Gutierrez said changing the hours to 5 pm would be hard to do because it would be a much earlier end to the day for them. Even compromising at 6 pm, it would be hard during the summer because it doesn't get dark until 10 pm. He agrees with 7 pm because that is the hours for their employees. Commissioner Williamson asked if this would be the only staging area and Mr. Gutierrez said yes. There was some discussion about the definition of the staging area versus what the normal landscaping business would allow. Mr. Gutierrez said he understood that they couldn't stage trees or plants over the weekend in the staging area. Mr. Gutierrez, in response to some of the photos shown, said the property looks different now. He said the complaints were only about the music and it was only one person filing the complaints. It was the same police officer who came to their property to discuss the issue most times and he said if they had to lower it by law, they would. But the police officer said he was just delivering the message that they received the complaint and there was nothing he could do. It is something they have always done (playing the music) and they have never had any complaints in the past. It's nothing obnoxious and it echoes. The music is coming from the household; they have someone living with them who loves music. He said again that he feels like the music has nothing to do with the business.

MOTION: Commissioner Williamson moved to close public testimony on Case CU2022-0038 seconded by Commissioner Nevill. Voice vote, motion carried.

DELIBERATION:

Commissioner Nevill's concern was that he didn't want to put them out of business but he doesn't know what to do about this. He said he doesn't think they can do anything about the noise as it was not related to the business, it was from the family. He doesn't think they can put conditions on the noise, as it is from a single family dwelling. They could condition the hours of operation for things related to the staging area. He said he thinks they should decide whether they are going to add the condition that once the business is sold, the conditional use permit expires. On condition #4, he would be willing to change the time.

Commissioner Villafana would be willing to change the hours on condition #4 but would want it to be seasonal. Winter and Spring would be 7 am – 6 pm; Summer and Fall would be 7 am to 7 pm.

Commissioner Amarel said he understands they can't limit personal music; but the business says they want to be friendly and a good neighbor but they aren't willing to turn down the music. That doesn't seem to be an option.

Commissioner Sheets said this is a unique piece of the county. It is an enclave and directly abutting a residential area. When he looks at the code he asks if it would be injurious to the other property in the immediate vicinity or negatively change the character of the area. The code is not asking if it would only be injurious to the County area. They could impose some conditions to remedy some of those injuries. He

understands the music issue and that it's a private residence. If the music is related to the business or being played by employees, they can condition that. If it is related to the residence, that would be a nuisance claim. He would be in support of reducing some of the injuries by reducing the hours and limiting the music related to the business. He would have to think about how to phrase that. Planning Official Dan Lister reminded the Commissioners that they are talking about the staging area; they can't condition the landscaping business or the house. It would only be applicable to the staging area. There was discussion about decibel levels, what would be measurable and how that would be enforced. Commissioner Villafana suggested Nov 1 – March 1: 7 am to 6 pm and March 1 to November 1, 7 am to 7 pm. There was discussion about using daylight savings time versus specific months. Commissioner Williamson said he agreed with Commissioner Amarel. The applicant is being an exceptional neighbor with those he shares the street with, but when a neighbor asks to turn the music down, how that is not possible. He does think they should add a condition #9; if the ownership of the property or business changes, the conditional use permit would expire. He also agreed on the changes to condition #4 (hours of operation). There was extensive discussion regarding the conditions imposed on the staging area and how that overlaps with the running of an allowed business in an agricultural zone which also has a residence onsite. Chairman Sturgill said based on the existing authorized uses, it was already having a negative impact on the immediate vicinity. There is an ongoing compliance issue with the existing uses and the applicant has indicated not granting the conditional use permit would not destroy the business. Under those circumstances, he is not inclined to increase the uses and create any future negative impact on the immediate vicinity.

MOTION: Commissioner Nevill moved to approve Case CU2022-0038 including modified Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Villafana. Roll call vote: 3 in favor, 3 opposed, motion failed.

MOTION: Commissioner Sheets made a motion to table this item for conclusion after the last agenda item. Seconded by Commissioner Nevill. Voice vote, motion passed.

- **Case No. CU2022-0037/Kevin Roberts:** The applicant, Kevin Roberts, is requesting a Conditional Use Permit to allow a Dog Kennel Use within an "A" (agricultural) zone. The dog kennel will have the ability to house a maximum of 30 dogs at a time. The subject property is located at 15368 Mink Rd., Caldwell, ID; also referenced as a portion of the NE¼ of Section 04, T4N, R3W, Canyon County, Idaho.

Planner Samantha Hammond reviewed the Staff report for the record.

Chairman Robert Sturgill affirmed the witnesses to testify.

Testimony:

Kevin Roberts – Applicant (Representative) – IN FAVOR – 15368 Mink Road Caldwell ID 83605

Mr. Roberts and his wife both grew up in the Middleton and Caldwell area. He was excited when they got the property for a dog boarding facility. They dropped down from 40 to 30 dogs because they felt the 3-foot by 10-foot kennels weren't enough so they amended it to 30 dogs and are using 4-foot by 12-foot kennels. The dog runs have guillotine-style doors on a pulley system so the dogs can go in and out. He went door to door to speak to all the neighbors about this project. When they talked to the neighbors, the main concern was dogs barking so the foam was an idea to mitigate the noise. The property is only

about 50 feet from the freeway. They are starting with R21 spray foam or padded insulation which should reduce the noise, especially with the freeway noise. If there is a noise issue after that, they will get additional studio foam and put that in the kennels. The kennel floors will be sloped concrete with a trough system that runs through it. That trough system will lead to a separate animal waste septic system at it will be pressure washed twice a day. Any other waste found will be picked up. He showed an aerial photo of the property and indicated where the kennel would be located. He said they may put slats in the back fence to mitigate the view of the neighbor behind them. They want the business to look professional. When asked what the need for a kennel was, he said they also train personal protection and police dogs so they have always been around dogs and in that world. When they moved to this property, he couldn't find a place to board his dogs in Canyon County and all boarding facilities were booked out 6 months. They saw the need. He said this is for people going on vacation, moving or who have visitors allergic to dogs. Commissioner Nevill asked if he had reviewed the conditions of approval; Mr. Roberts said he read them and had a question about condition 9. There was discussion about condition 9 and if the conditional use permit could be transferrable if someone wanted to buy the property and the business. Commissioner Sheets asked if there would be any dog breeding and Mr. Roberts said no. They might add dog training but there will be no dog breeding. Commissioner Williamson asked about the insulation and if would be the same in the walls and the ceiling. Mr. Roberts said he was not the builder but he believed the insulation would be in both the walls and the ceiling. He also said that there would be a separate heating and air conditioning system so the kennel would be a temperature controlled environment. Mr. Roberts said they don't anticipate that the freeway noise will disturb the dogs. The hours of operation would be 10 am to 5 pm for drop off and pick up. The 24 hour operation is so he and his wife can clean up and taking care of the dogs after hours. The dogs will be inside by 10 pm. Commissioner Nevill about the hours of operation if there is an emergency: should they add some verbiage to the conditions regarding that? Mr. Roberts said that he felt that scenario was covered by the fact that it stated employees would be on call 24/7. Commissioner Nevill felt putting language that limited customers to only 10 am to 5 pm could pose a problem if customers come with an emergency drop off. Commissioner Sheets asked if the 6-foot fence alongside the property and the freeway would be tall enough. Mr. Roberts said he believed so as not many dogs can jump a 6-foot fence. They will be having clients fill out questionnaires and if the dog is one that jumps fences, they will be brought outside with an employee. Mr. Roberts showed the photo of the property and showed how the 6 foot fencing will be around the part of the property that houses the dogs. Commissioner Amarel asked about the number of employees Mr. Roberts would have. Mr. Roberts said at first, there will just be him and his wife, but they plan on hiring more people as they bring in more dogs. Commissioner Amarel asked if there was an existing fence separating the property from the freeway and Mr. Roberts confirmed that there was a 6-foot fence in a ditch next to the freeway.

MOTION: Commissioner Sheets moved to close public testimony on Case CU2022-0037 seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION: Commissioner Nevill suggested they change condition #4 to "all fencing around the facility" and condition #6 add "except in an emergency". On condition #9, he suggested they strike "individual" from the condition. Commissioner Williamson said he thought they would need to come in for an amendment to the conditional use permit if it was sold. Commissioner Sheets said he found that this area was more conducive for a dog kennel as it is next to a freeway.

MOTION: Commissioner Nevill moved to approve Case CU2022-0037 including modified Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Williamson. Roll call vote: 6 in favor, 0 opposed, motion passed.

REOPENED: CASE CU2022-0038 / Manual Gutierrez

Chairman Sturgill opened up the floor for further discussion on this item. Commissioner Sheets asked how this could be potentially injurious to the area. Chairman Sturgill explained his concern was that when the applicant was told that existing uses were injurious to the neighbors, he expressed very little consideration to make modifications to the behavior under the existing uses to accommodate the neighbors' concerns. By increasing the scope of the allowed uses, they might be potentially pushing the envelope and increase the impact on adjacent properties. Commissioner Nevill asked staff, given the enforcement concerns expressed by the Director of Development Services, does it help to give the intent about why he is changing the condition? Director Minshall said the definitions written in the code is what makes it challenging. She said giving intent is always helpful in creating the record as long as they stick to what they can use to make decision criteria. Intent isn't going to help for enforcement purposes because it has to be whatever is specifically in the code but it can help as part of the findings for the decision if there is an appeal to the Board. There was additional discussion with Planning Official Dan Lister about the mitigation of impacts and adding special conditions. He said the focus should be on the conditional use permit; not the landscaping business or the single family dwelling playing the music. Commissioner Nevill said he didn't think they could mitigate the possible damage. Any of the ways they were crafting conditions for this conditional use permit would not provide protection for the neighbors because they can't do anything about the landscaping business, and single family residence was not in their purview. He was not sure he was able to vote to approve it.

Commissioner Sheets said he would have liked to see the code complaint because he felt it could have helped inform his decision to see what the issues were. He feels the overlay between the landscaping business and the staging area is razor thin. What part of the activity is related to the landscaping business and what is part is the staging business is so fuzzy that it can't be enforced. Without an enforcement mechanism, it has convinced him to change his vote.

Commissioner Amarel said the only thing they can do is limit the time, but the time is for the business and doesn't have anything to do with the staging. He clarified that he meant they could limit the time for access to the facility. Planning Official Dan Lister said the original complaint was in reference to two sheds that were built on the property without building permits and from that, they found the staging area issue.

Commissioner Villafana outlined the difficulties with separating the differences between the business storing items versus the items contained in a staging area.

Planning Official Dan Lister gave some examples of what staging areas have been in past hearings.

Commissioner Williamson wanted to state that it might have been proven that complaints were being made about noise but it wasn't proven that the business associated with the property was making the noise.

Commissioner Villafana wanted to state that even though the business hadn't been operating out of the property for very long, it is an agricultural area. The residential area approached the agricultural area; the Ag zone was there first and the landscaping business is allowed. Even though the residential area has moved in and it is injurious to them, they are operating a business that is allowed. The residential area moved into the Ag area and he felt they needed to think about that more. It is injurious to the Ag zone when residential areas move in and try to change the Agricultural area to try to suit them.

Commissioner Amarel agreed with what Commissioner Villafana said but he felt it didn't fit this case.

Commissioner Sheets felt the applicant didn't need this and without mechanisms to enforce it, he didn't feel it was necessary.

MOTION: Commissioner Nevill moved to deny Case CU2022-0038 including revised Findings of Facts, Conclusions of Law and Conditions of Approval. Motion seconded by Commissioner Amarel. Roll call vote: 5 in favor, 1 opposed, motion passed.

APPROVAL OF MINUTES:

MOTION: Commissioner Nevill moved to approve the minutes from 12/15/2022, seconded by Commissioner Villafana. Voice vote, motion carried.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

Director Minshall discussed the first workshop she had with the Board of County Commissioners. The first thing the Board is interested in is the schedule and process for land use applications and hearings. They discussed concerns, solutions and using the Planning and Zoning Commission at a higher level as a screening body. She will be meeting with the new Chief Operation Officer to find out if they are going to formalize those procedures with the Legal Department and when the processes will change. She said the Development Services Department has already made some internal process changes. They had some good discussions with the Highway District staff about staff report information and turnaround time for comments. There was discussion on the time frame of posting applications online for the public and the possibilities of late exhibits during the hearing itself.

She discussed scheduling joint meetings or workshops between the Planning and Zoning Commissioners and the Board of County Commissioners and the topics of interest that could be covered including standardized conditions of approval to help the Commissioners.

Planning Official Dan Lister provided a personnel update for the Department of Development Services.

ADJOURNMENT:

MOTION: Commissioner Sheets moved to adjourn, seconded by Commissioner Williamson. Voice vote, motion carried. Hearing adjourned at 10:12 pm.

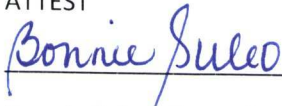
An audio recording is on file in the Development Services Departments' office.

Approved this 16TH day of February, 2023



Robert Sturgill, Chairman

ATTEST



Bonnie Puleo, Recording Secretary

June 16, 2022

Canyon County Development Service Dept
111 North 11th Ave #140
Caldwell, ID 83605

To Whom It May Concern:

I would like to apply for a Conditional Use Permit for my property located at 17087 N Franklin Blvd, Nampa ID 83687. I own a small landscaping company – Progressive Lawn Care LLC. Along the side of the property, I have trees and shrubs organized in a few rows. These job materials are used for landscaping projects and we rotate them as we use them up for jobs. This area is for storage purposes only as customers or clients never visit the property. We would appreciate the opportunity to continue to use this area for materials storage for my company.

The permit that we are applying for is permitted in the zone.

The nature of the request is for storage for our small business.

The comprehensive plan is consistent with our proposed use.

The proposed use will not be injurious to any other property or will not negatively change the essential character of the area/property.

There is adequate water, sewer, irrigation, drainage, and stormwater drainage facilities to accommodate this request.

Legal access already exists for the property.

There will not be an undue interference with traffic patterns (existing or future).

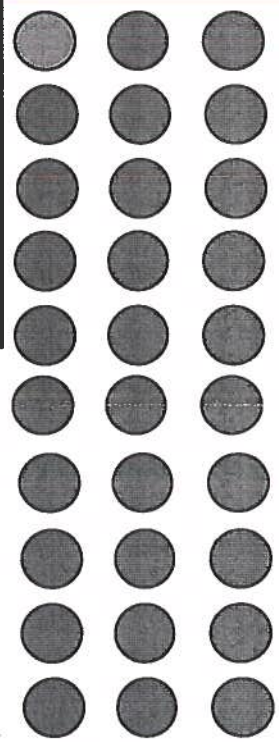
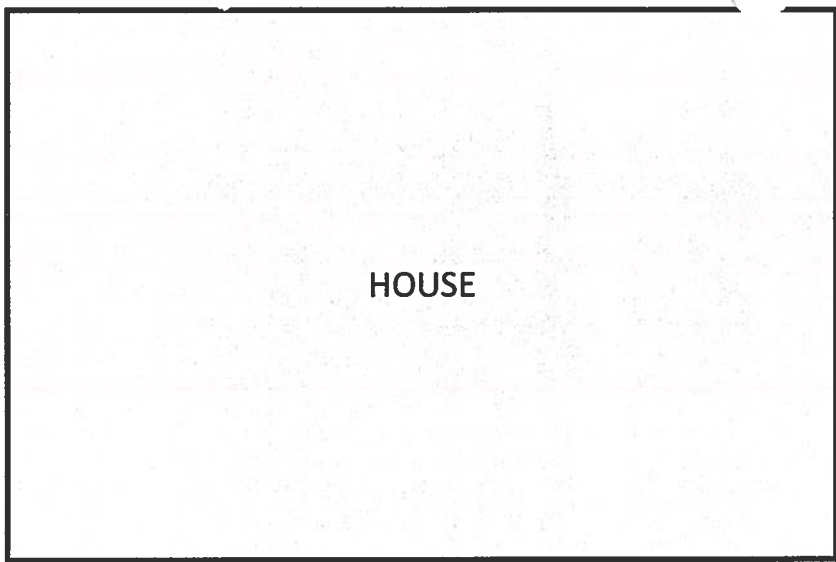
Essential services will not be necessary to accommodate this request.

Thank you for your consideration in this request.

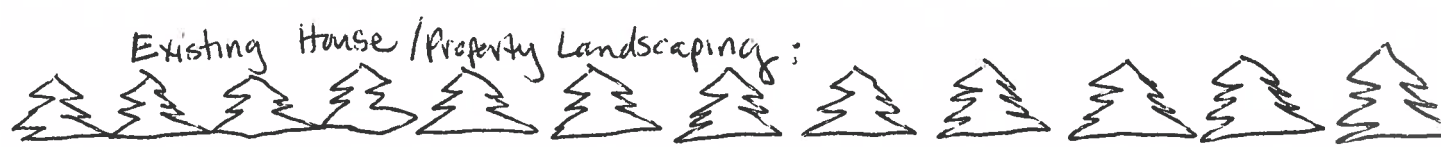
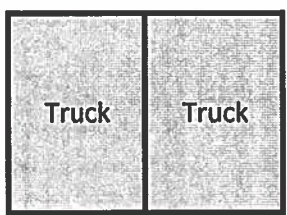
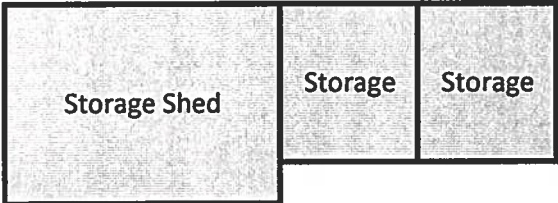
With Regard,



Jose Gutierrez, Owner
Progressive Lawn Care LLC



Trees stored
Here



LAND USE WORKSHEET

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #140, Caldwell, ID 83605

www.canyonco.org/dsd.aspx Phone: 208-454-7458 Fax: 208-454-6633



Required for Conditional Use Permit, Comprehensive Plan and Zoning Ordinance Amendment Applications

PLEASE CHECK ALL THAT APPLY TO YOUR REQUEST:

GENERAL INFORMATION

- 1. DOMESTIC WATER:** ☒ Individual Domestic Well ☐ Centralized Public Water System ☐ City
☐ N/A – Explain why this is not applicable: _____
☐ How many Individual Domestic Wells are proposed? _____

- 2. SEWER (Wastewater)** ☒ Individual Septic ☐ Centralized Sewer system
☐ N/A – Explain why this is not applicable: _____

3. IRRIGATION WATER PROVIDED VIA:

- ☒ Surface ☐ Irrigation Well ☐ None

4. IF IRRIGATED, PROPOSED IRRIGATION:

- ☐ Pressurized ☐ Gravity

5. ACCESS:

- ☐ Frontage ☐ Easement Easement width _____ Inst. # _____

6. INTERNAL ROADS:

- ☒ Public ☐ Private Road User's Maintenance Agreement Inst # _____

7. FENCING

- ☐ Fencing will be provided (Please show location on site plan)

Type: Chainlink fencing Height: _____

8. STORMWATER:

- ☐ Retained on site ☐ Swales ☐ Ponds ☐ Borrow Ditches

☐ Other: _____

9. SOURCES OF SURFACE WATER ON OR NEARBY PROPERTY: (i.e. creeks, ditches, canals, lake)

None

RESIDENTIAL USES

1. NUMBER OF LOTS REQUESTED: n/a

- ☐ Residential _____ ☐ Commercial _____ ☐ Industrial _____
☐ Common _____ ☐ Non-Buildable _____

2. FIRE SUPPRESSION:

- ☐ Water supply source: _____

3. INCLUDED IN YOUR PROPOSED PLAN?

- ☐ Sidewalks ☐ Curbs ☐ Gutters ☐ Street Lights ☐ None

NON-RESIDENTIAL USES

1. SPECIFIC USE: Storage Area on side of property for trees.

2. DAYS AND HOURS OF OPERATION:

- ☐ Monday _____ to _____
☐ Tuesday _____ to _____
☐ Wednesday _____ to _____
☐ Thursday _____ to _____
☐ Friday _____ to _____
☐ Saturday _____ to _____
☐ Sunday _____ to _____

3. WILL YOU HAVE EMPLOYEES? ☒ Yes If so, how many? 8 ☐ No

4. WILL YOU HAVE A SIGN? ☐ Yes ☒ No ☐ Lighted ☐ Non-Lighted

Height: _____ ft Width: _____ ft. Height above ground: _____ ft

What type of sign: _____ Wall _____ Freestanding _____ Other _____

5. PARKING AND LOADING:

How many parking spaces? A few employees leave personal vehicles parked in driveway / near driveway during the day while working
Is there is a loading or unloading area? n/a

ANIMAL CARE RELATED USES

1. MAXIMUM NUMBER OF ANIMALS: n/a

2. HOW WILL ANIMALS BE HOUSED AT THE LOCATION?

☐ Building ☐ Kennel ☐ Individual Housing ☐ Other _____

3. HOW DO YOU PROPOSE TO MITIGATE NOISE?

☐ Building ☐ Enclosure ☐ Barrier/Berm ☐ Bark Collars

4. ANIMAL WASTE DISPOSAL

☐ Individual Domestic Septic System ☐ Animal Waste Only Septic System

☐ Other: _____

MASTER APPLICATION

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #310, Caldwell, ID 83605

zoninginfo@canyoncounty.id.gov Phone: 208-454-7458 Fax: 208-454-6633



PROPERTY OWNER	OWNER NAME: Manuel Gutierrez
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 602 2211 EMAIL: mgutierrez10324@gmail.com
I consent to this application and allow DSD staff / Commissioners to enter the property for site inspections. If owner(s) are a business entity, please include business documents, including those that indicate the person(s) who are eligible to sign.	
Signature: <u>Manuel Gutierrez</u> Date: <u>2-16-23</u>	

* email has letter L not a 1

(AGENT) ARCHITECT ENGINEER BUILDER	CONTACT NAME: Jose Gutierrez
	COMPANY NAME: Progressive Lawn Care LLC
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 869 3334 EMAIL: progressive.lawn.care.jose@gmail.com

SITE INFO	STREET ADDRESS: 17087 N Franklin Blvd Naupa ID 83687			
	PARCEL #: R30792		LOT SIZE/AREA:	
	LOT:	BLOCK:	SUBDIVISION:	
	QUARTER:	SECTION:	TOWNSHIP:	RANGE:
	ZONING DISTRICT:		FLOODZONE (YES/NO):	

HEARING LEVEL APPS	<input checked="" type="checkbox"/> CONDITIONAL USE	<input type="checkbox"/> COMP PLAN AMENDMENT	<input type="checkbox"/> CONDITIONAL REZONE
	<input type="checkbox"/> ZONING AMENDMENT (REZONE)	<input type="checkbox"/> DEV. AGREEMENT MODIFICATION	<input type="checkbox"/> VARIANCE > 33%
	<input type="checkbox"/> MINOR REPLAT	<input type="checkbox"/> VACATION	<input type="checkbox"/> APPEAL
	<input type="checkbox"/> SHORT PLAT SUBDIVISION	<input type="checkbox"/> PRELIMINARY PLAT SUBDIVISION	<input type="checkbox"/> FINAL PLAT SUBDIVISION

DIRECTORS DECISION APPS	<input type="checkbox"/> ADMINISTRATIVE LAND DIVISION	<input type="checkbox"/> EASEMENT REDUCTION	<input type="checkbox"/> SIGN PERMIT
	<input type="checkbox"/> PROPERTY BOUNDARY ADJUSTMENT	<input type="checkbox"/> HOME BUSINESS	<input type="checkbox"/> VARIANCE 33% >
	<input type="checkbox"/> PRIVATE ROAD NAME	<input checked="" type="checkbox"/> TEMPORARY USE	<input type="checkbox"/> DAY CARE
	<input type="checkbox"/> OTHER _____		

CASE NUMBER: CW2022-0038-APL	DATE RECEIVED: 2/17/23
RECEIVED BY: Maddy Vander Veen	APPLICATION FEE: \$600 CK MO <input checked="" type="radio"/> CASH

Revised 3/1/22

February 16, 2023

Canyon County Development Services Dept
111 North 11th Ave #310
Caldwell, ID 83605

To Whom It May Concern:

RE: Conditional Use Permit for Progressive Lawn Care LLC

We respectfully request to appeal the decision made to deny our application for a Conditional Business Use Permit. We list the following reasons why we believe the denial decision should be reversed:

- We started this process for application in June 2022. We were provided with and mailed out notices to all required neighboring homeowners on 06/21/22 and held the required public hearing 06/29/22.
- We submitted our application mid-July 2022 with the required fee and waited to hear a response.
- We received an email August 21, 2022 that one of the property owners was now opposing the conditional use permit and we were working through what options were still available. We believe the opposition arose from a personal family matter that we were able to resolve.
- On September 26, 2022 we received confirmation that that same owner who opposed the permit had changed her mind and signed off on the application. An email was received stating that the case was awaiting to be assigned.
- We sent an email a month later, October 24, 2022 to follow up because we had not heard anything. We were told that the case had not yet been assigned to a planner, but the office was trying to get things done as quickly as they could since they were understaffed.
- After a month and a half – December 15, 2022 we received notification that the case had finally been assigned to someone.
- A few days later, December 19, 2022 – we received notification that a hearing had been scheduled for January 19, 2023.
- The hearing was finally scheduled nearly 7 months after starting the process and holding the required public hearing for neighboring home owners, but we appreciated finally getting a hearing date to move forward with the application.
- The hearing was held on January 19, 2023.
- We attending the hearing as required, we spoke regarding our application, intentions for use of the property, and were willing to answer any questions.
- At the hearing, there were three or four people who spoke against our application. It is our understanding that the people were all from the same household. The members of the household live at a home across the canal and in a neighborhood located behind our property. They disagreed with the approval of the permit due to multiple instances of loud music seemingly from parties. While we understand that they have a right to complain about loud music or house parties, we were confused as to how this complaint pertained to the application

for business use of the property. We were given a chance for a response and felt that the committee acted unprofessionally for questioning us about being "good neighbors". We were approached by various people after the denial for our permit was given who were shocked and confused as to why the meeting proceeded in that manner. We believe it was confusing

- On February 8, 2023 – we reached out regarding whether an appeal would be necessary or not and were advised to wait to hear back from the department.
- On February 16, 2023 – we received an email advising us to file the appeal and that it was due the next day February 17, 2023.

We strongly believe that we did everything within our power to comply with the application process as well as any additional requests. We understand that the department being understaffed is a challenge, but contend that our application process was extended beyond a reasonable amount of time. Neighbors and homeowners possibly affected by the conditional use permit application were notified timely and we did not receive any opposition within a reasonable time frame. We have no control over if new renters or homeowners moved into neighborhoods after the required public hearing was held. The complaints that were expressed at the hearing had nothing at all to do with the business use of the property. The complaints came from neighbors who had issued with a noise complaint from a party. We do not understand how this relates to our application for approval to use the property for storage for our landscaping materials and/or machines. The temporary business use of our property is extremely important to the operations and success of our landscaping business.

We would appreciate if you would reconsider the denial of our application. The dissension that was expressed by a neighbor at the hearing resulted from a personal matter/annoyance and had nothing to do with the business located at the property.

We would also request that the \$600 fee to process this appeal/application be waived and/or refunded. We contend that the initial fee paid with the initial application in July 2022 should be sufficient as we complied with all requirements and then waited a significant period of time to have a hearing scheduled.

We are happy to provide copies of any and all email correspondence mentioned earlier in this appeal letter if it would be helpful in tracking the extended waiting period regarding our application. The employee(s) from the department were always extremely helpful and apologetic as we waited for the process to go through the required steps. The employee(s) from the department were also helpful as we were guided through the appeals process.

In conclusion, we continue to be confused as to why the denial of our application occurred due to the fact that the complaint against the conditional business use had nothing at all to do with the business. We respectfully request that our appeal be upheld, the initial decision overturned, and our application be approved.

With Regard,



Manuel Gutierrez
Home Owner



Jose Gutierrez
Business Owner



Planning & Zoning Commission - Staff Report

Gutierrez – CU2022-0038

Hearing Date: January 19, 2023

Development Services Department

Owner/Applicant:

Manuel Gutierrez

Representative:

Krista O'Dell & Jose Gutierrez

Staff:

Madelyn Vander Veen, Planning Technician

Tax ID:

R30792

Current Zone:

"A" (Agricultural)

2020 Comprehensive Plan

Future Use Designation:

Residential

Lot Size:

1.59 acres

City Impact Area:

Nampa

Current Uses:

Residential/Staging Area

Applicable Zoning Land Use

Regulations: CCZO §07-02-03, §07-14-29, §07-07-05, §07-10-27, and §09-11-25

Notification:

- Agencies, Full Political, JEPa: 12/19/2022
- Property Owners: 12/29/2022
- Newspaper: 1/3/2022
- Posting: 1/10/2023

Exhibits:

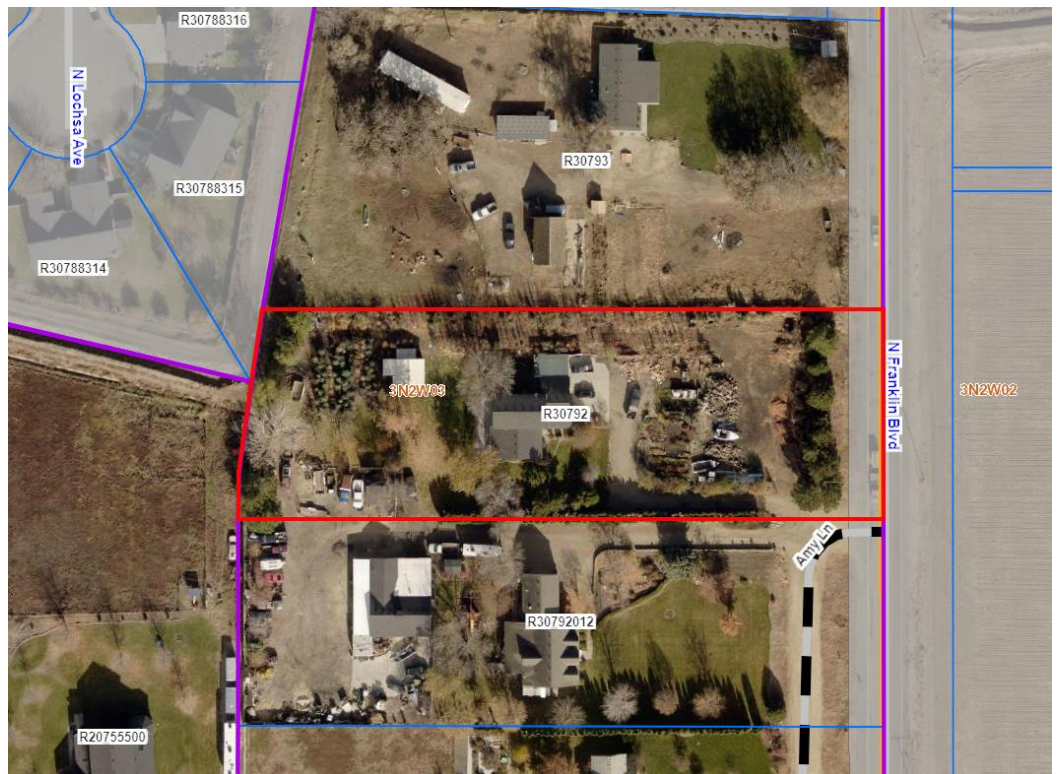
1. Draft Findings of Fact, Conclusions of Law and Order (FCO)
 - Attachment A: Letter of Intent with Site Plan and Land Use Worksheet
2. Neighborhood Meeting
3. **Maps:**
 - a. Aerial
 - b. Vicinity
 - c. Zoning
 - d. Case Map & Report
 - e. Future Land Use
 - f. Nampa Future Land Use
 - g. Nitrate Priority & Wells
4. **Comments:**
 - a. Nampa Engineering Division
 - b. Idaho Transportation Dept.
 - c. Nampa Highway District
 - d. Canyon County Code Enforcement

Request

The applicants, Krista O'Dell & Jose Gutierrez, representing Manuel Gutierrez, are requesting a conditional use permit for a Staging Area located on parcel R30792. The requested use includes storage of landscaping materials and equipment for use off-site. The parcel is zoned "A" (Agricultural). The subject property is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho.

Background

The 1.59-acre parcel was created by conditional use permit in 1987 along with the three parcels to the south (CU2002-747). The property is currently used for residential purposes and as a staging area for a landscaping business. A code enforcement violation case was opened in February 2021 for the staging area operating without a conditional use permit as well as an unpermitted structure (CDEF2021-0017). A building permit is in progress for that structure (BP2022-0177).



Applicable Standards & Regulations

Conditional Use Permit Hearing Criteria (CCZO §07-07-05):

The presiding party shall consider each conditional use permit application by finding adequate evidence to answer the following questions in its FCOs:

- (1) Is the proposed use permitted in the zone by conditional use permit;
- (2) What is the nature of the request;
- (3) Is the proposed use consistent with the comprehensive Plan;
- (4) Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area;

- (5) Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use;
- (6) Does legal access to the subject property for the development exist or will it exist at the time of development;
- (7) Will there be undue interference with existing or future traffic patterns; and
- (8) Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conditional Use Permit Special Conditions (CCZO §07-07-17)

Special conditions may be attached to a conditional use permit including, but not limited to, conditions which:

- (1) Minimize adverse impact, such as damage, hazard, and nuisance, to persons or the subject property or property in the vicinity;
- (2) Control the sequence and timing of development;
- (3) Control the duration of development;
- (4) Designate the exact location and nature of development;
- (5) Require the provision for on site or off-site public facilities or services;
- (6) Require more restrictive standards than those generally required in this chapter; or
- (7) Mitigate the negative impacts of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the county.

Definition – Staging Area (CCZO §07-02-03)

An area where equipment and/or materials are stored for use conducted entirely off site.

Use Standards – Staging Area (CCZO §07-14-29)

- (1) All work shall be conducted off site.
- (2) Business vehicles shall be operable and parked on site, not on a public or private road.
- (3) Persons not employed on the premises may visit the premises for the purpose of picking up equipment and materials to be used elsewhere, including trucks offloading or transferring equipment and/or materials to other vehicles.
- (4) Employees may meet on the premises to share rides to and from job sites.
- (5) Employees' vehicles shall be parked on site and not on a public or private road. (Ord. 16-001, 1-8-2016)

Proposed Use

The request is to use the front area and northern side of the subject parcel for storage of trees, shrubs, equipment, and trucks for Progressive Lawn Care LLC. There are 8 employees who may come to the property to pick up or drop off materials. Hours of operation will not exceed 7am to 7pm, Monday through Friday. The proposed location of the staging area is hard-surfaced with gravel. Existing trees block site of the use from Franklin Blvd and properties to the south. The use does not include a sign.

Site Photos

The following photos were taken on a site visit on January 11, 2023.

Image 1: Taken at entrance of property facing north.



Image 2: Taken at entrance to property facing south.





Image 3: Taken at entrance to staging area facing west.



Image 4: Taken at entrance of staging area facing north.





Image 5: Taken in staging area facing west.



Image 6: Taken in staging area facing south.



Surrounding Land Use/Character

The subject parcel is zoned "A" (Agricultural). Surrounding county parcels are primarily zoned A, R-1, M-1, and M-2. Surrounding city parcels are primarily residential zones, with a "Community Business District/Zone" zoned parcel directly to the east. The table below is an analysis of the surrounding area and county zoning.

Existing Conditions		Zoning
North	Nampa subdivisions	A, in city
East	Nampa – large residential and community business zoned parcels	in city
South	1-2 acre county homesites, Nampa subdivisions	A, in city
West	2-3 acre county homesites, Nampa subdivisions, some industrial-zoned county parcels	A, R-1, M-1, M-2, in city

A (Agricultural), R-R (Rural Residential), R-1 (Single-Family Residential), C-1 (Neighborhood Commercial), C-2 (Service Commercial), M-1 (Light Industrial), CR (Conditional Rezone).

Based on the site visit photos and existing conditions of the area, the area is predominantly residential with some commercial and industrial zoning.

Comprehensive Plan

The subject property is designated as "Residential" on the future land use plan within the 2020 Canyon County Comprehensive Plan (Exhibit 3e). The request is generally consistent with the following policies and goals of the Comprehensive Plan:

- Property Rights Policy No. 1: *"No person shall be deprived of private property without due process of law."*
- Property Rights Policy No. 11: *"Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods."*
- Population Goal No. 2: *"To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs."*
- Economic Development Policy No. 2: *"Support existing business and industry in the county."*
- Land Use Goal No 2: *"To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area."*
- Land Use Goal No. 3: *"Use appropriate techniques to mitigate incompatible land uses."*

Facilities

Based on the applicant's letter of intent and land use worksheet (Exhibit 1, Attachment A), the property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

Access

The property has existing access onto N Franklin Blvd, a public road. No new access points are proposed. Nampa Engineering Division has jurisdiction over the road and did not comment on access.

Essential Services

The use is not anticipated to impact school, fire, police, or emergency services. All essential services were notified of the proposed use. No comments were received indicating there would be an impact to essential services.

Analysis

The use, as proposed and conditioned, is not anticipated to have a negative impact on the surrounding area. In accordance with the Staging Area Use Standards (CCZO §07-14-29), all work is conducted off-

site, clients never visit the premises, and employee and/or business vehicles shall be parked on site rather than in the right of way (Condition 5). The use is already obscured from the road and some surrounding properties by foliage which shall be maintained (Condition 6). Approval of the use would resolve the code enforcement violation on the property (Exhibit 4d). No issues were brought up by agency or public comments.

Area of City Impact—Nampa

Pursuant to Section 09-11-25(1) of the Canyon County Code (Area of City Impact Agreement – Nampa): *“All land use applications submitted to Canyon County including, but not limited to, rezones, conditional rezones, conditional use permits, variances and land divisions requiring notification of a public hearing, shall be referred to the city of Nampa in the manner as provided for in subsection 09-11-17(3) of this article.”*

- Section 09-11-17(3): *“All proposals to amend Canyon County's comprehensive plan, which may pertain to the Nampa area of city impact, but which do not originate from the city of Nampa, shall be referred to the city of Nampa's planning and community development director at least thirty (30) calendar days prior to the first county public hearing on the matter and the city of Nampa may make a recommendation before or at said public hearing. After the city receives its initial thirty (30) days' notice, any further notice of proposed changes to the proposal will be provided to the city of Nampa at least seven (7) days prior to the public hearing. If a recommendation is received by the county from the city of Nampa, it shall be given consideration by the county, provided it is factually supported, but such recommendation shall not be binding on the county. If no recommendation is received, Canyon County may proceed without the recommendation of the city of Nampa.”*

The conditional use permit application submittal was sent to City of Nampa on December 19, 2022 in compliance with Section 09-11-25(1) of the agreement. No comments were received other than an email from Nampa Engineering Division stating that they have “no comment or concern” (Exhibit 4a).

Comments

Public Comments:

At the time of drafting the staff report, no public comments were received.

Agency Comments:

Affected agencies were notified on December 19th, 2022. Nampa Engineering Division, Idaho Transportation Department, and Nampa Highway District each provided an email stating they have no comments (Exhibits 4a, 4b, 4c). Code Enforcement Officer Eric Arthur sent an email stating that approval of this application would resolve the code violation (Exhibit 4d).

Decision Options

- 1) The Planning and Zoning Commission may approve the conditional use permit as conditioned and/or amended;
- 2) The Planning and Zoning Commission may deny the conditional use permit and direct staff to make findings of fact to support this decision; or
- 3) The Planning and Zoning Commission may continue the discussion and request additional information on specific items.

Recommendation

Staff recommends the Planning and Zoning Commission open a public hearing and discuss the proposed Conditional Use Permit. Staff is recommending **approval** of the request and has provided findings of fact, conclusions of law, and recommended conditions of approval for the Planning and Zoning Commission's consideration found in Exhibit 1.



Findings of Fact, Conclusions of Law, Conditions of Approval and Order

Conditional Use Permit - CU2022-0038

Findings of Fact

1. The applicants, Krista O'Dell & Jose Gutierrez, representing Manuel Gutierrez, are requesting a conditional use permit for a Staging Area located on parcel R30792. The application was submitted on August 11, 2022.
2. The property is zoned "A" (Agricultural).
3. The subject parcel, R30792, is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho; and is approximately 1.59 acres in size.
4. The property is located within the Nampa City Impact Area.
5. Parcel R30792 has frontage along Franklin Blvd, a public road.
6. The property is located within the Nampa Fire District. No comments were received from that district.
7. A neighborhood meeting was conducted on June 29, 2022 in accordance with CCZO §07-01-15(1).
8. The request was noticed/published in accordance with Canyon County Code §07-05-01. Property owners within 600 feet of the property boundaries were noticed on December 29, 2022. Agencies were noticed on December 19, 2022. Newspaper notice was published on January 3, 2023. The property was posted on January 10, 2023.
9. All recorded herein consists of exhibits provided in the public hearing staff report, testimony and exhibits provided during the public hearing on January 19, 2023 and all information in case file CU2022-0038.

Conclusions of Law

For case file CU2022-0038, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (CCZO §07-07-05):

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The proposed use is permitted in the zone by conditional use permit.

Finding: The parcel is zoned "A" (Agricultural). Pursuant to CCZO §07-10-27, staging areas are allowed in the "A" (Agricultural) Zone subject to a conditional use permit. The applicants submitted a conditional use permit application on August 11, 2022 in accordance with CCZO §07-07-03.

2. What is the nature of the request?

The applicant is requesting a Staging Area within an "A" (Agricultural) Zone. The use will be contained within the 1.59-acre parcel which has frontage on Franklin Blvd, a public road.

The applicant's letter of intent and land use worksheet (Attachment A) states the request is to use the property along the side and front for storage of trees, shrubs, equipment, and trucks for Progressive Lawn Care LLC. There are 8 employees who may come to the property to pick up or drop off materials. Hours of operation will not exceed 7am to 7pm, Monday through Friday (Condition 4). The proposed location of the staging area, east of the house, is hard-surfaced with gravel. Existing trees block site of the use from Franklin Blvd and properties to the south. The use does not include a sign.

3. Is the proposed use consistent with the Comprehensive Plan?

Conclusion: The proposed use is consistent with the Comprehensive Plan.

Finding: The subject property is designated as "Residential" on the future land use plan within the 2020 Canyon County Comprehensive Plan (Exhibit 3e). The use is consistent with the following Canyon County Comprehensive Plan policies:

Exhibit 1

- Property Rights Policy No. 1: *“No person shall be deprived of private property without due process of law.”*
- Property Rights Policy No. 11: *“Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.”*
- Population Goal No. 2: *“To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs.”*
- Economic Development Policy No. 2: *“Support existing business and industry in the county.”*
- Land Use Goal No 2: *“To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area.”*
- Land Use Goal No. 3: *“Use appropriate techniques to mitigate incompatible land uses.”*

4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: The proposed use will not be injurious to other property in the immediate vicinity and will not negatively change the essential character of the area.

Finding: No evidence has been provided that the proposed use would be injurious to other property in the vicinity nor will it negatively change the essential character of the area. To minimize potential impacts to existing and future uses in the area, conditions of approval are included.

5. Will adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems be provided to accommodate the use;

Conclusion: The property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

Finding: Based on the applicant’s letter of intent and land use worksheet (Exhibit 1, Attachment A), the property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

6. Does legal access to the subject property for the development exist or will it exist at the time of final plat;

Conclusion: Legal access does currently exist.

Finding: The property has access onto N Franklin Blvd which is a public road. No new access points are proposed. Nampa Engineering Division has jurisdiction over the road and did not comment on access.

7. Will there be undue interference with existing or future traffic patterns?

Conclusion: There will not be undue interference with existing or future traffic patterns.

Finding: Nampa Highway District, Idaho Transportation Department, and Nampa Highway District each provided an email stating they have no comments. The proposed use is not expected to generate enough traffic to require a traffic impact study, or to negatively affect existing traffic patterns.

Employees may enter and exit the property from 7 am to 7 pm, Monday-Friday. The staging area includes space for parking on site with gravel surface. All applicable off-street parking requirements shall meet CCZO Section 07-13-01 and 07-13-03.

8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conclusion: Necessary essential services will be provided to accommodate the use. The use is not anticipated to impact essential services or require additional public funding.

Finding: The parcel is in the Nampa Fire District. The use is not anticipated to impact essential services or require additional public funding. All essential services were notified of the proposed use. No agency comments were received to indicate that there would be an impact to essential services.

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the subject property and the proposed use.
2. Historic irrigation lateral, drain, ditch flow patterns and associated easements shall be maintained and protected unless approved in writing by the local irrigation district or ditch company.
3. The facility shall be developed in general conformance with the Letter of Intent and Site Plan as conditioned. The Site Plan and Letter of Intent are attached as FCO’s Attachment A dated June 16th, 2022.
4. Hours of operation shall not exceed 7:00 a.m. to 7:00 p.m., Monday through Friday.
5. All employee and business vehicles shall be parked on-site. Employee parking is prohibited on the public right-of-way.
6. Existing site-obscuring landscaping around the perimeter of the property shall be maintained.
7. Structures and fences shall be maintained in good repair. Equipment, weeds and trash shall be maintained so as not to become a public nuisance (Canyon County Code §02-01-05).
8. All exterior lighting shall be downward facing and directed away from adjacent properties.

Order

Based upon the Findings of Fact, Conclusions of Law and Conditions of Approval enumerated above, the Planning and Zoning Commission **approves** Case CU2022-0038, a request for a Conditional Use Permit to allow a staging area on tax parcel R30792.

APPROVED this _____ day of _____, 2023.

PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

Robert Sturgill, Chairman

State of Idaho)

SS

County of Canyon County)

On this _____ day of _____, in the year of 2022, before me _____, a notary public, personally appeared _____, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: _____

My Commission Expires: _____

ATTACHMENT A

MASTER APPLICATION

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #310, Caldwell, ID 83605

zoninginfo@canyoncounty.id.gov

Phone: 208-454-7458

Fax: 208-454-6633



PROPERTY OWNER	OWNER NAME: Manuel Gutierrez
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 602 2211 EMAIL: mgutierrez10324@gmail.com
I consent to this application and allow DSD staff / Commissioners to enter the property for site inspections. If owner(s) are a business entity, please include business documents, including those that indicate the person(s) who are eligible to sign.	
Signature: <u>Manuel Gutierrez</u> Date: <u>08-04-22</u>	

(AGENT) ARCHITECT ENGINEER BUILDER	CONTACT NAME: Jose Gutierrez
	COMPANY NAME: Progressive Lawn Care LLC
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 869 3334 EMAIL: progressive.lawn.care.jose@gmail.com

SITE INFO	STREET ADDRESS: 17087 N Franklin Blvd Naupa ID 83687		
	PARCEL #: R30792	LOT SIZE/AREA:	
	LOT:	BLOCK:	SUBDIVISION:
	QUARTER:	SECTION: 3	TOWNSHIP: 3N RANGE: 2W
	ZONING DISTRICT:	FLOODZONE (YES/NO):	

HEARING LEVEL APPS	<input checked="" type="checkbox"/> CONDITIONAL USE	<input type="checkbox"/> COMP PLAN AMENDMENT	<input type="checkbox"/> CONDITIONAL REZONE
	<input type="checkbox"/> ZONING AMENDMENT (REZONE)	<input type="checkbox"/> DEV. AGREEMENT MODIFICATION	<input type="checkbox"/> VARIANCE > 33%
	<input type="checkbox"/> MINOR REPLAT	<input type="checkbox"/> VACATION	<input type="checkbox"/> APPEAL
	<input type="checkbox"/> SHORT PLAT SUBDIVISION	<input type="checkbox"/> PRELIMINARY PLAT SUBDIVISION	<input type="checkbox"/> FINAL PLAT SUBDIVISION

DIRECTORS DECISION APPS	<input type="checkbox"/> ADMINISTRATIVE LAND DIVISION	<input type="checkbox"/> EASEMENT REDUCTION	<input type="checkbox"/> SIGN PERMIT
	<input type="checkbox"/> PROPERTY BOUNDARY ADJUSTMENT	<input type="checkbox"/> HOME BUSINESS	<input type="checkbox"/> VARIANCE 33% >
	<input type="checkbox"/> PRIVATE ROAD NAME	<input checked="" type="checkbox"/> TEMPORARY USE	<input type="checkbox"/> DAY CARE
	<input type="checkbox"/> OTHER		

CASE NUMBER: CU2022-0038	DATE RECEIVED: 8/11/2022
RECEIVED BY: SH	APPLICATION FEE: \$950.00 <input checked="" type="checkbox"/> MO <input type="checkbox"/> CC <input type="checkbox"/> CASH

Revised 3/1/22

June 16, 2022

Canyon County Development Service Dept
111 North 11th Ave #140
Caldwell, ID 83605

To Whom It May Concern:

I would like to apply for a Conditional Use Permit for my property located at 17087 N Franklin Blvd, Nampa ID 83687. I own a small landscaping company – Progressive Lawn Care LLC. Along the side of the property, I have trees and shrubs organized in a few rows. These job materials are used for landscaping projects and we rotate them as we use them up for jobs. This area is for storage purposes only as customers or clients never visit the property. We would appreciate the opportunity to continue to use this area for materials storage for my company.

The permit that we are applying for is permitted in the zone.

The nature of the request is for storage for our small business.

The comprehensive plan is consistent with our proposed use.

The proposed use will not be injurious to any other property or will not negatively change the essential character of the area/property.

There is adequate water, sewer, irrigation, drainage, and stormwater drainage facilities to accommodate this request.

Legal access already exists for the property.

There will not be an undue interference with traffic patterns (existing or future).

Essential services will not be necessary to accommodate this request.

Thank you for your consideration in this request.

With Regard,



Jose Gutierrez, Owner
Progressive Lawn Care LLC


Elbia G. Limon, Alexa L. Gutierrez
Manuel L. Gutierrez
17083 Amy Lane
Nampa, ID 83687
208-919-1367

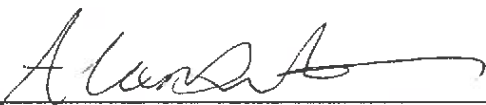
September 22, 2022

Hello Ms. Vander Veen,

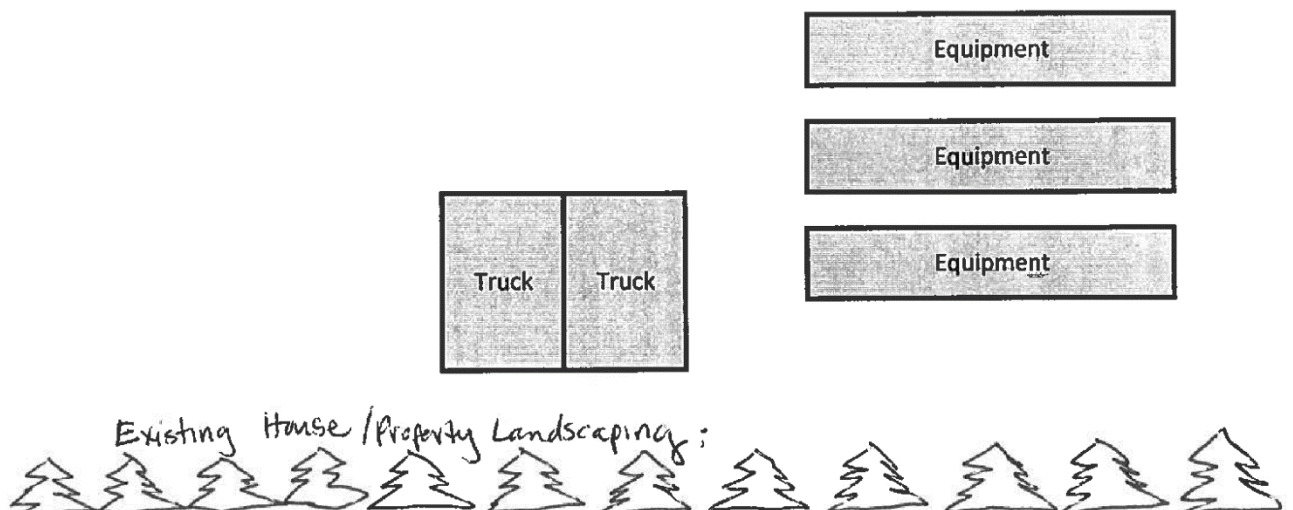
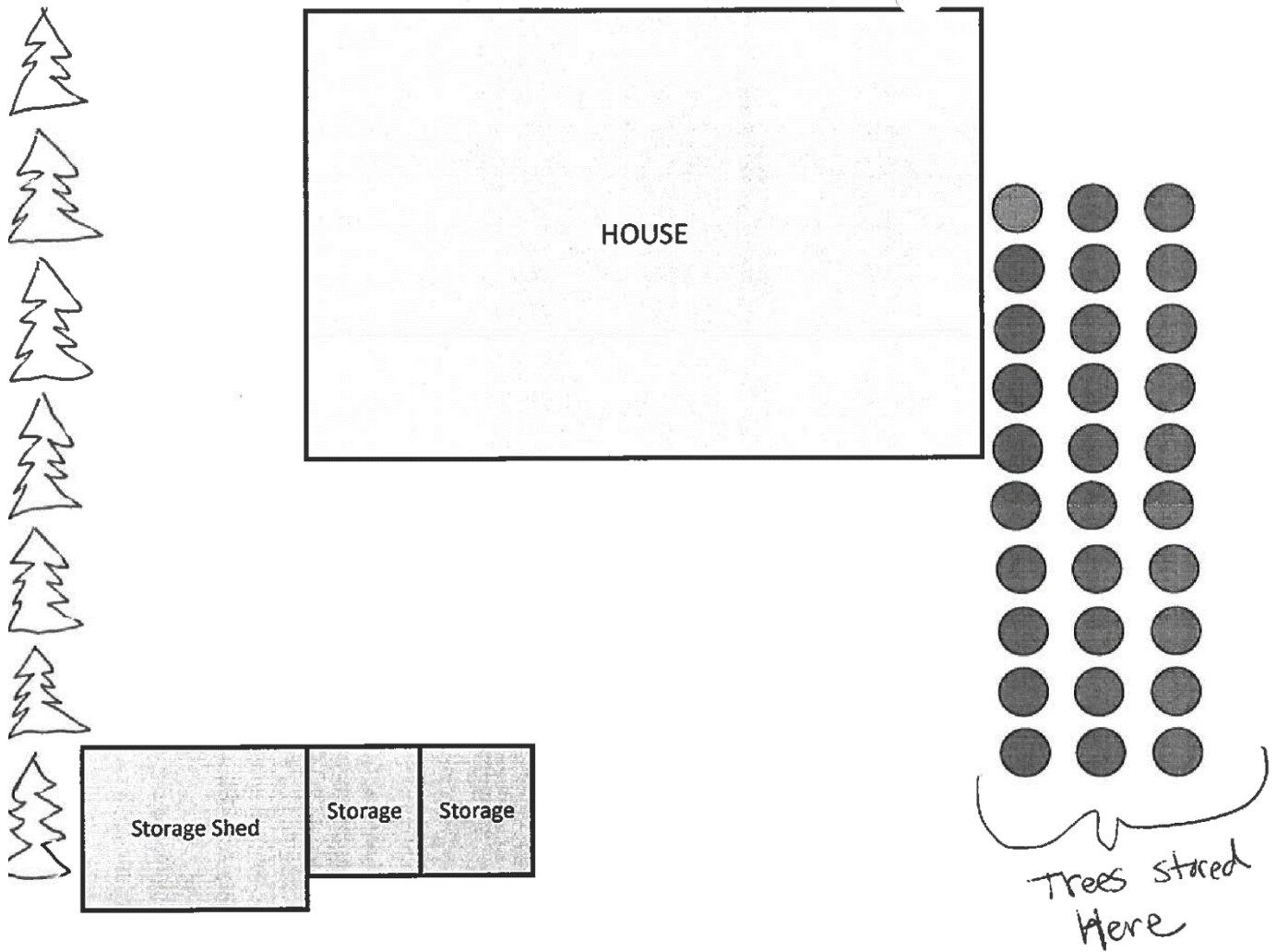
We are writing to you today regarding the conditional permit (CU2022-0038) for the property located at 17087 N. Franklin Blvd in Nampa, Idaho. We've come to an agreement, and we have decided to allow the business Progressive Lawn Care, LLC to continue operating with the conditional permit approval.

Please let us know if you have any questions, we sincerely appreciate your time and understanding in this matter. Please find enclosed our three signatures.

 Date 9/23/22
Elbia G. Limon

 Date 9/23/22
Alexa L. Gutierrez

 Date 9/23/22
Manuel L. Gutierrez



LAND USE WORKSHEET

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #140, Caldwell, ID 83605

www.canyonco.org/dsd.aspx Phone: 208-454-7458 Fax: 208-454-6633



Required for Conditional Use Permit, Comprehensive Plan and Zoning Ordinance Amendment Applications

PLEASE CHECK ALL THAT APPLY TO YOUR REQUEST:

GENERAL INFORMATION

- 1. DOMESTIC WATER:** ☒ Individual Domestic Well ☐ Centralized Public Water System ☐ City
☐ N/A – Explain why this is not applicable: _____
☐ How many Individual Domestic Wells are proposed? _____

- 2. SEWER (Wastewater)** ☒ Individual Septic ☐ Centralized Sewer system
☐ N/A – Explain why this is not applicable: _____

3. IRRIGATION WATER PROVIDED VIA:

- ☒ Surface ☐ Irrigation Well ☐ None

4. IF IRRIGATED, PROPOSED IRRIGATION:

- ☐ Pressurized ☐ Gravity

5. ACCESS:

- ☐ Frontage ☐ Easement Easement width _____ Inst. # _____

6. INTERNAL ROADS:

- ☒ Public ☐ Private Road User's Maintenance Agreement Inst # _____

7. FENCING

- ☐ Fencing will be provided (Please show location on site plan)

Type: chain link fencing Height: _____

8. STORMWATER:

- ☐ Retained on site ☐ Swales ☐ Ponds ☐ Borrow Ditches

☐ Other: _____

9. SOURCES OF SURFACE WATER ON OR NEARBY PROPERTY: (i.e. creeks, ditches, canals, lake)

None

RESIDENTIAL USES

1. NUMBER OF LOTS REQUESTED: n/a

- ☐ Residential _____ ☐ Commercial _____ ☐ Industrial _____
☐ Common _____ ☐ Non-Buildable _____

2. FIRE SUPPRESSION:

- ☐ Water supply source: _____

3. INCLUDED IN YOUR PROPOSED PLAN?

- ☐ Sidewalks ☐ Curbs ☐ Gutters ☐ Street Lights ☐ None

NON-RESIDENTIAL USES

1. SPECIFIC USE: Storage Area on side of property for trees.

2. DAYS AND HOURS OF OPERATION:

- ☐ Monday _____ to _____
☐ Tuesday _____ to _____
☐ Wednesday _____ to _____
☐ Thursday _____ to _____
☐ Friday _____ to _____
☐ Saturday _____ to _____
☐ Sunday _____ to _____

3. WILL YOU HAVE EMPLOYEES? ☒ Yes If so, how many? 8 ☐ No

4. WILL YOU HAVE A SIGN? ☐ Yes ☒ No ☐ Lighted ☐ Non-Lighted

Height: _____ ft Width: _____ ft Height above ground: _____ ft

What type of sign: _____ Wall _____ Freestanding _____ Other

5. PARKING AND LOADING:

How many parking spaces? A few employees leave personal vehicles parked in driveway / near driveway during the day while working

Is there is a loading or unloading area? n/a

ANIMAL CARE RELATED USES

1. MAXIMUM NUMBER OF ANIMALS: n/a

2. HOW WILL ANIMALS BE HOUSED AT THE LOCATION?

☐ Building ☐ Kennel ☐ Individual Housing ☐ Other _____

3. HOW DO YOU PROPOSE TO MITIGATE NOISE?

☐ Building ☐ Enclosure ☐ Barrier/Berm ☐ Bark Collars

4. ANIMAL WASTE DISPOSAL

☐ Individual Domestic Septic System ☐ Animal Waste Only Septic System

☐ Other: _____

NEIGHBORHOOD MEETING SIGN-UP

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #140, Caldwell, ID 83605

www.canyonco.org/dsd.aspx Phone: 208-454-7458 Fax: 208-454-6633



NEIGHBORHOOD MEETING SIGN UP SHEET

CANYON COUNTY ZONING ORDINANCE §07-01-15

Applicants shall conduct a neighborhood meeting for any proposed comprehensive plan amendment, zoning map amendment (rezone), subdivision, variance, conditional use, zoning ordinance map amendment, or other requests requiring a public hearing.

SITE INFORMATION

Site Address: 17087 N Franklin Blvd	Parcel Number: R30792	
City: Nampa	State: ID	ZIP Code: 83687
Notices Mailed Date: 6-17-22	Number of Acres:	Current Zoning:
Description of the Request: Maintain Storage Area for trees/shrubs along side of property.		

APPLICANT / REPRESENTATIVE INFORMATION

Contact Name: Jose Gutierrez		
Company Name: Progressive Lawn Care LLC		
Current address: 17087 N Franklin Blvd		
City: Nampa	State: ID	ZIP Code: 83687
Phone: 208 869 3334	Cell: 208 869 3334	Fax:
Email: progressive.lawn.care.jose@gmail.com		

MEETING INFORMATION

DATE OF MEETING: 6-29-22	MEETING LOCATION: 17087 N Franklin Blvd	
MEETING START TIME: 8:00pm	MEETING END TIME:	
ATTENDEES:		
NAME (PLEASE PRINT)	SIGNATURE:	ADDRESS:
1. DANIEL GRAMAROSSA		17039 AMY LANE, NAMPA
2. Abraham Padilla Santoyo		17137 N FRANKLIN BLVD, Nampa
3. LONNIE JUSTICE		17169 N FRANKLIN BLVD, NAMPA
4.		
5.		
6.		
7.		
8.		
9.		

10.
11.

12.
13.
14.
15.
16.
17.
18.
19.
20.

NEIGHBORHOOD MEETING CERTIFICATION:

I certify that a neighborhood meeting was conducted at the time and location noted on this form and in accordance with Canyon County Zoning Ordinance § 07-01-15.

APPLICANT/REPRESENTATIVE (Please print):

Jose Gutierrez

APPLICANT/REPRESENTATIVE (Signature): Jose Gutierrez

DATE: 07/19/2022

Notice of Neighborhood Meeting
Conditional Use Permit
Pre-application requirement for a public hearing

Date: 06/17/22

Dear Neighbor –

We are in the process of submitting an application for a Conditional Use Permit (or variance, zoning ordinance map amendment, expansion, or extension or nonconforming uses, etc.) to Canyon County Development Services (DSD). One of the requirements necessary prior to submit the application is to hold a “neighborhood meeting” and provide information to our surrounding neighbors.

(Canyon County Zoning Ordinance 07-01-15)

This meeting is for informational purposes and to receive feedback from you as we move through the application process. This is not a Public Hearing before a governing body of the County. Once our application has been submitted and processed, a public hearing date will be scheduled. Prior to the scheduled date you will receive an official notification from Canyon County DSD regarding the public hearing via mail, newspaper publication, and /or a display on the property for which the Conditional Use Permit (or other case type) is applied.

The Neighborhood Meeting details are as follows:

Date: 06/29/22 (Wednesday)
Time: 8:00 pm
Location: 17087 N Franklin Blvd, Nampa ID 83687

The project is summarized below:

Site Location: 17087 N Franklin Blvd, Nampa ID 83687

We are proposing to be continued to maintain the current storage area for our trees and shrubs located along the side of the property. The trees and shrubs are neatly organized into rows. We use this as a storage area only. Landscaping customers or clients never visit out property. We rotate the inventory of trees and shrubs frequently as we use these materials for landscaping projects.

We look forward to the neighborhood meeting and encourage you to attend. At that time we will answer any questions that you may have.

Please do not call the Canyon County Development Services regarding this meeting. This is a pre-application requirement and we have not submitted the application for consideration at this time. The county currently has not information on this project.

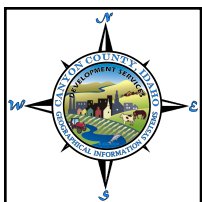
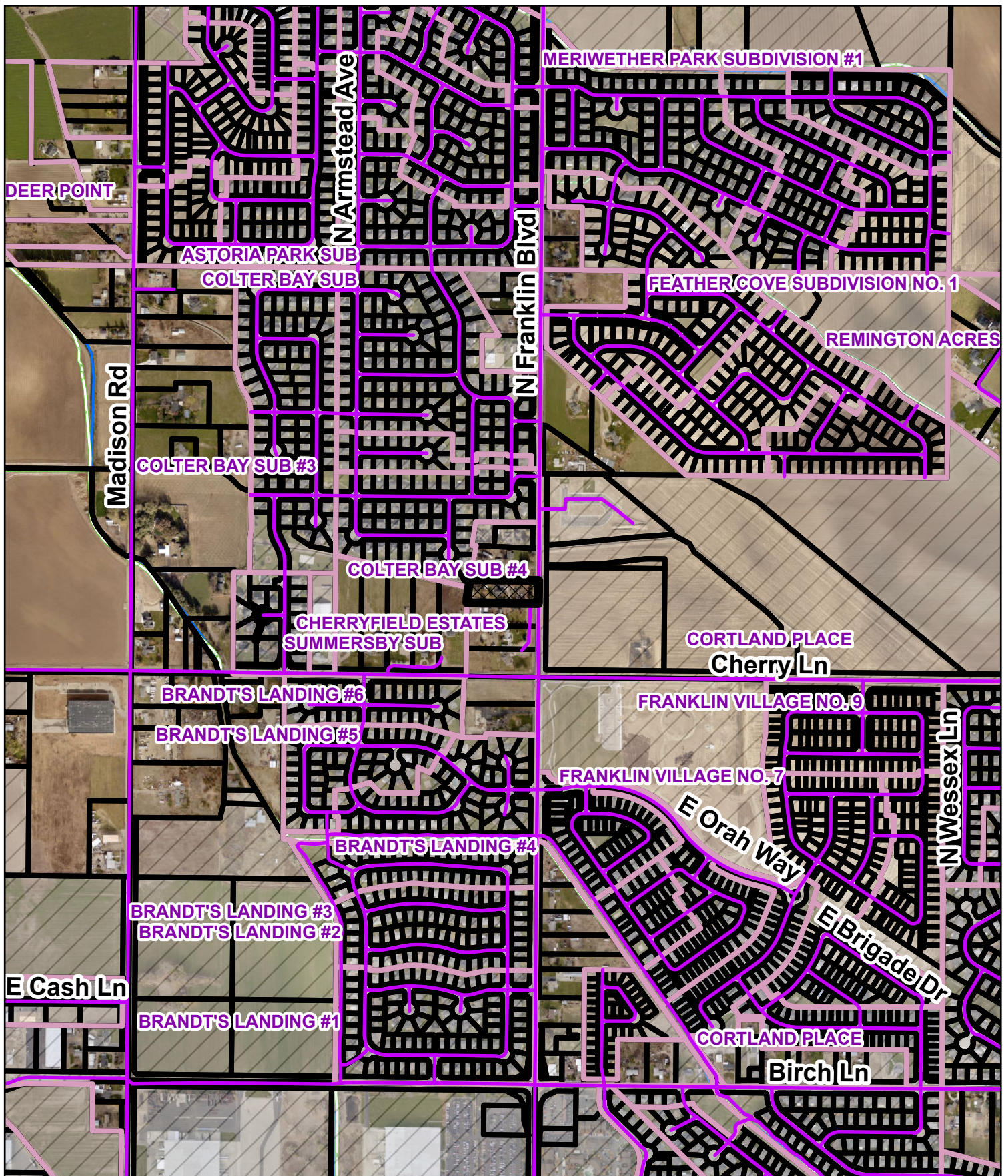
If you have questions prior to this meeting, please contact me at 208-869-3334.

Sincerely,

Jose Gutierrez, Owner
Progressive Lawn Care LLC

PARCEL_NO	OwnerName	Address	City	State	ZipCode
R07925789	WELLMAN ROBIN L	16491 11TH AVE N	NAMPA	ID	83687
R07925787	BULLOCK MARION T	8118 E WATER STONE CT	NAMPA	ID	83687
R07925786	HOLLIDAY JOSEPH MICHAEL	8112 E WATER STONE CT	NAMPA	ID	83687
R07925788	CORRELL JENNIFER L	8130 E WATER STONE CT	NAMPA	ID	83687
R20939010	BRANDT DONALD KEITH	203 11TH AVE S	NAMPA	ID	83651
R20939010A	LOVE INC OF TREASURE VALLEY	PO BOX 3404	NAMPA	ID	83653
R20939	BRANDT DONALD KEITH	203 11TH AVE S	NAMPA	ID	83651
R20945014	NAMPA CITY OF	411 THIRD ST S	NAMPA	ID	83651
R20755501	WHISTLER AMY E	8130 MAE WAY	NAMPA	ID	83687
R20755503	OVERMAN JOSEPH D	8200 MAC WAY	NAMPA	ID	83687
R20755500	PINEDA MARIA OLIVIA	8100 MAC WAY	NAMPA	ID	83687
R20755502	STEWART DARELL C	8170 MAC WAY	NAMPA	ID	83687
R30788300	FRANK DENNIS H	17234 N RONAN AVE	NAMPA	ID	83687
R30788308	ROSAS MANUEL MENDOZA	8193 E SUN RIVER ST	NAMPA	ID	83687
R30788309	CRETAL LEON	8179 E SUN RIVER ST	NAMPA	ID	83687
R30788310	GRANDINETTI MELISSA A	8161 E SUN RIVER ST	NAMPA	ID	83687
R30788312	MILLER SHANNON A	17183 N LOCHSA AVE	NAMPA	ID	83687
R30788319	PEYCHEV NIKOLAY A	17228 N LOCHSA AVE	NAMPA	ID	83687
R30788321	O MALLEY DAVID T	8057 E COLTER BAY DR	NAMPA	ID	83687
R30788331	SHAW STEVEN	8128 E SUN RIVER ST	NAMPA	ID	83687
R30788334	HANSON PATRICIA L TRUST	8178 E SUN RIVER ST	NAMPA	ID	83687
R30791010	TUSTISON LONNIE D	17169 N FRANKLIN BLVD	NAMPA	ID	83687
R30791010A	LACASSE CHESTER	17187 N FRANKLIN BLVD	NAMPA	ID	83687
R30793	SANTOYO ABRAHAM PADILLA	17137 N FRANKLIN RD	NAMPA	ID	83687
R30788311	PLUMMER JONATHAN L	8145 E SUN RIVER ST	NAMPA	ID	83687
R30788317	BRADBURN DAVID J	17196 N LOCHSA AVE	NAMPA	ID	83687
R30788323	RENSVOLD HARLAN AND KATHLEEN FAMILY TRUST	8025 E COLTER BAY DR	NAMPA	ID	83687
R30788324	HERMAN JEFFREY	19020 33RD AVE W NO 370	LYNNWOOD WA		98036
R30788329	CONNER DAVID M	8145 E COLTER BAY DR	NAMPA	ID	83687
R30788333	TUTOGI MARLENE	8162 E SUN RIVER ST	NAMPA	ID	83687
R30792011	LOPEZ NOE ALEX	PO BOX 1742	NAMPA	ID	83653
R30792012	LIMON ELBIA	17083 AMY LN	NAMPA	ID	83651
R30788301	SHELDEN GLEN A	17233 N JUDITH AVE	NAMPA	ID	83687-9272

R30788315	YEOMAN NANCY LEE	17168 N LOCHSA AVE	NAMPA	ID	83687	
R30788318	TROLINGER MICHAEL	17212 N LOCHSA AVE	NAMPA	ID	83687	
R30788320	GARCIA JOEL	8073 E COLTER BAY DR	NAMPA	ID	83687	
R30788328	ROSA STEVEN S	8161 E COLTER BAY DR	NAMPA	ID	83687	
R30788290	COLTER BAY HOMEOWNERS ASSOCIATION INC	515 S FITNESS PL STE 120	EAGLE	ID	83616	
R30788297	PARMANTIER SEBASTIAN	8114 E COLTER BAY DR	NAMPA	ID	83687	
R30788298	ROWAN ERIC P	8098 E COLTER BAY DR	NAMPA	ID	83687	
R30788313	FERRIN ROBERT HITE	17169 N LOCHSA AVE	NAMPA	ID	83687	
R30788314	PLUMB BILLY RAL	17154 N LOCHSA AVE	NAMPA	ID	83687	
R30788316	WATSON MARK PEREGO SR	17182 N LACHSA AVE	NAMPA	ID	83687	
R30788322	ZOROYA NICHOLAS M	8041 E COLTER BAY DR	NAMPA	ID	83687	
R30788332	CHIN CHRISTINE	PO BOX 2998	CARMEL	CA	93921	
R30792	GOMEZ JOSE	PO BOX 298	ROUND LAKE	IL	60073-0298	
R30792010	GRAMAROSSA DANIEL	17039 AMY LN	NAMPA	ID	83687	
R30788330	VASILCHENKO ILIA	8129 COLTER BAY DR	NAMPA	ID	83687	
R31014011	BRANDT DON	203 11TH AVE S	NAMPA	ID	83651	



Legend

Wetlands

City_Limits

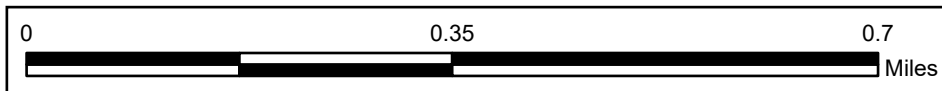


Exhibit 3a

Gutierrez Small Vicinity Map

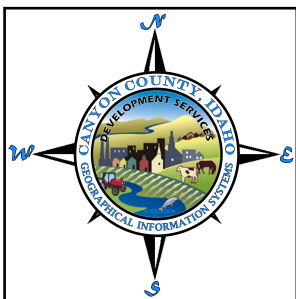
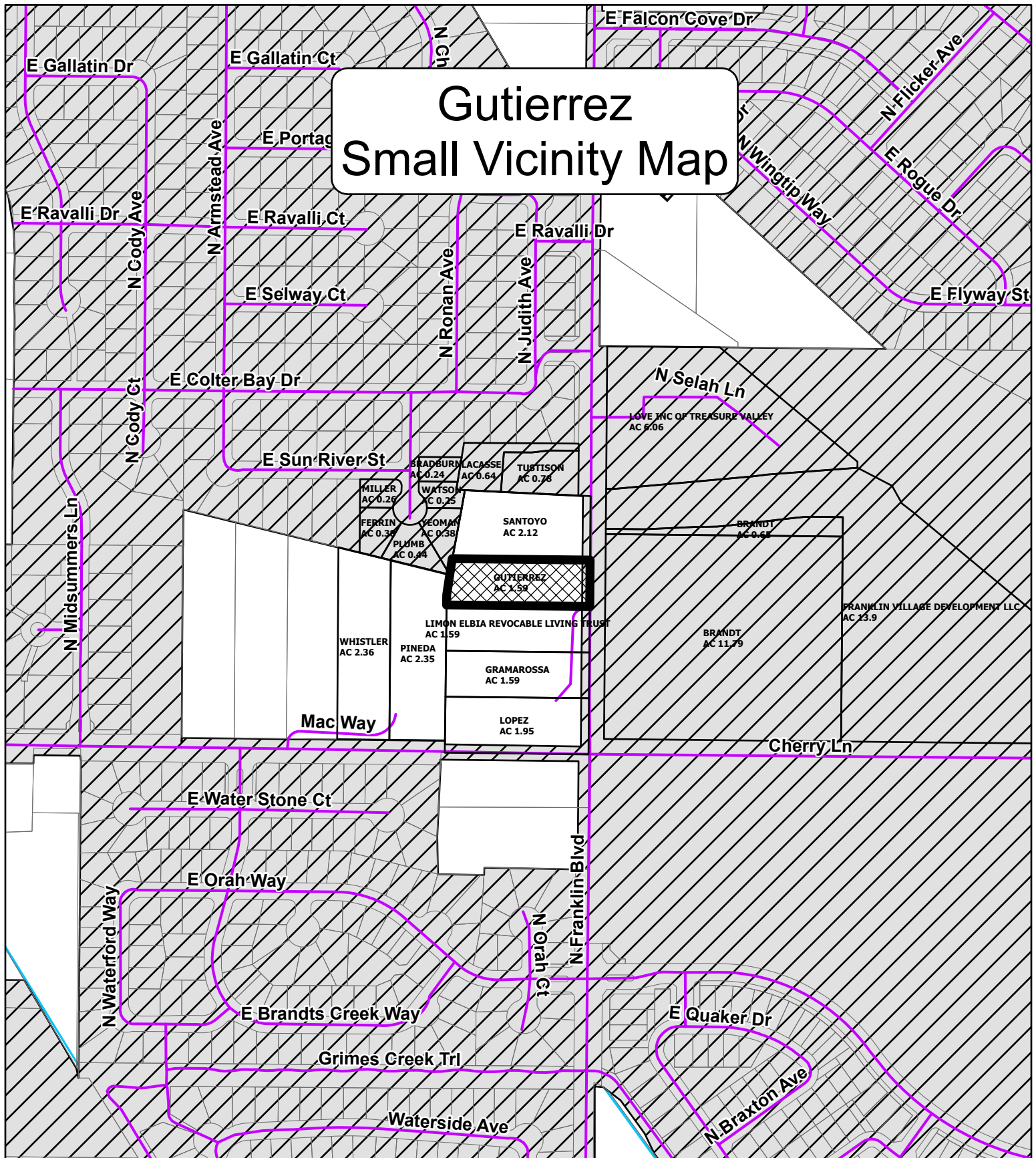
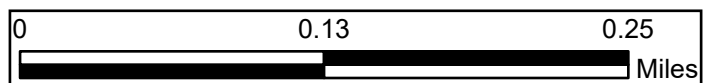
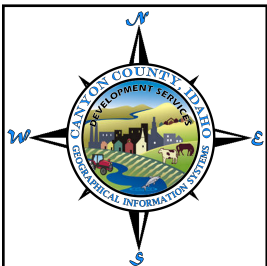
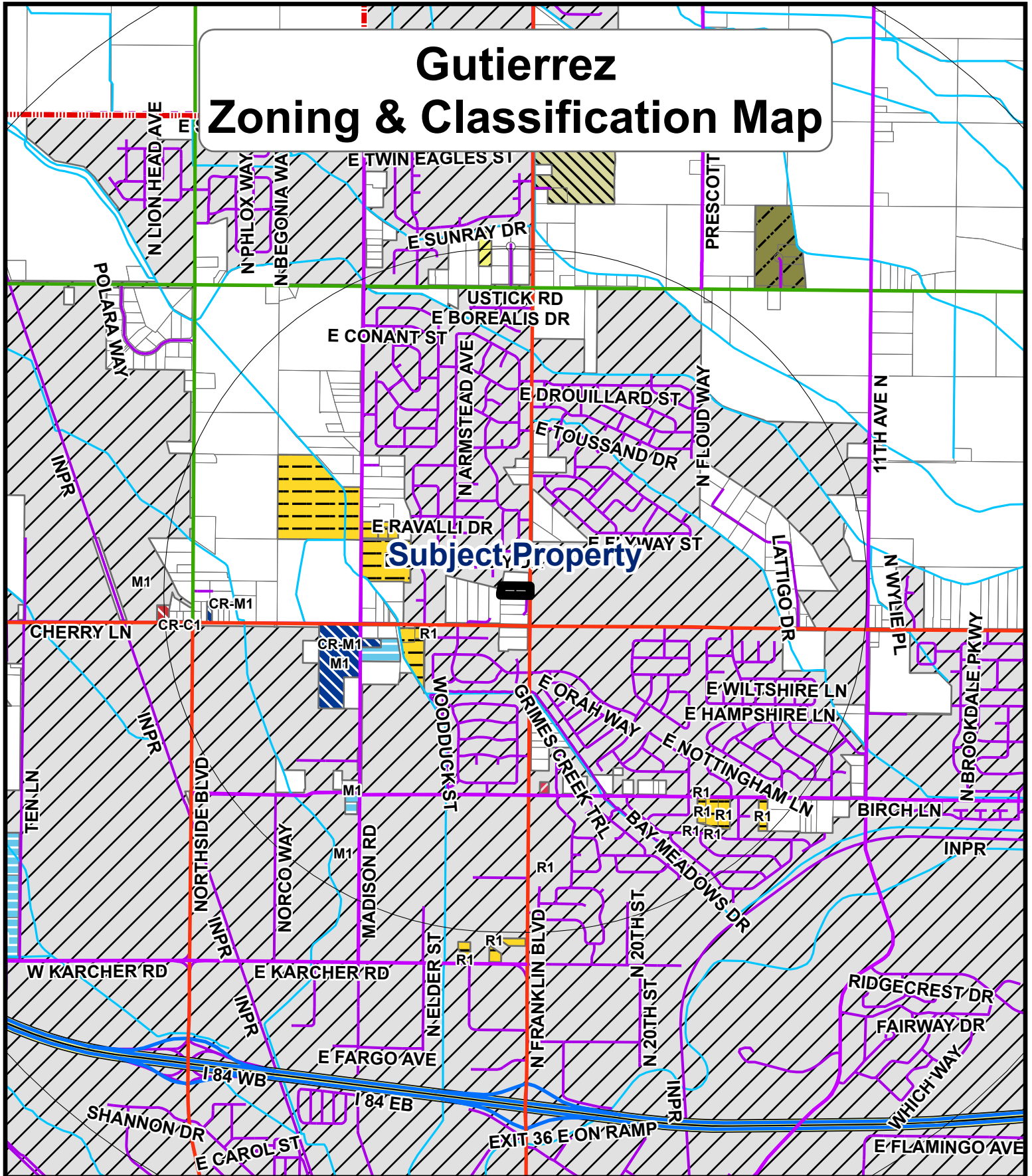


Exhibit 3b



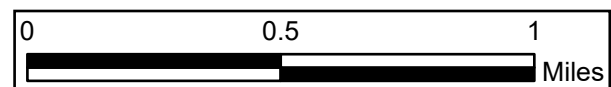
Gutierrez

Zoning & Classification Map

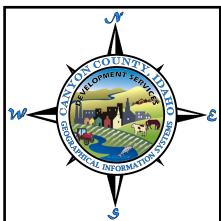
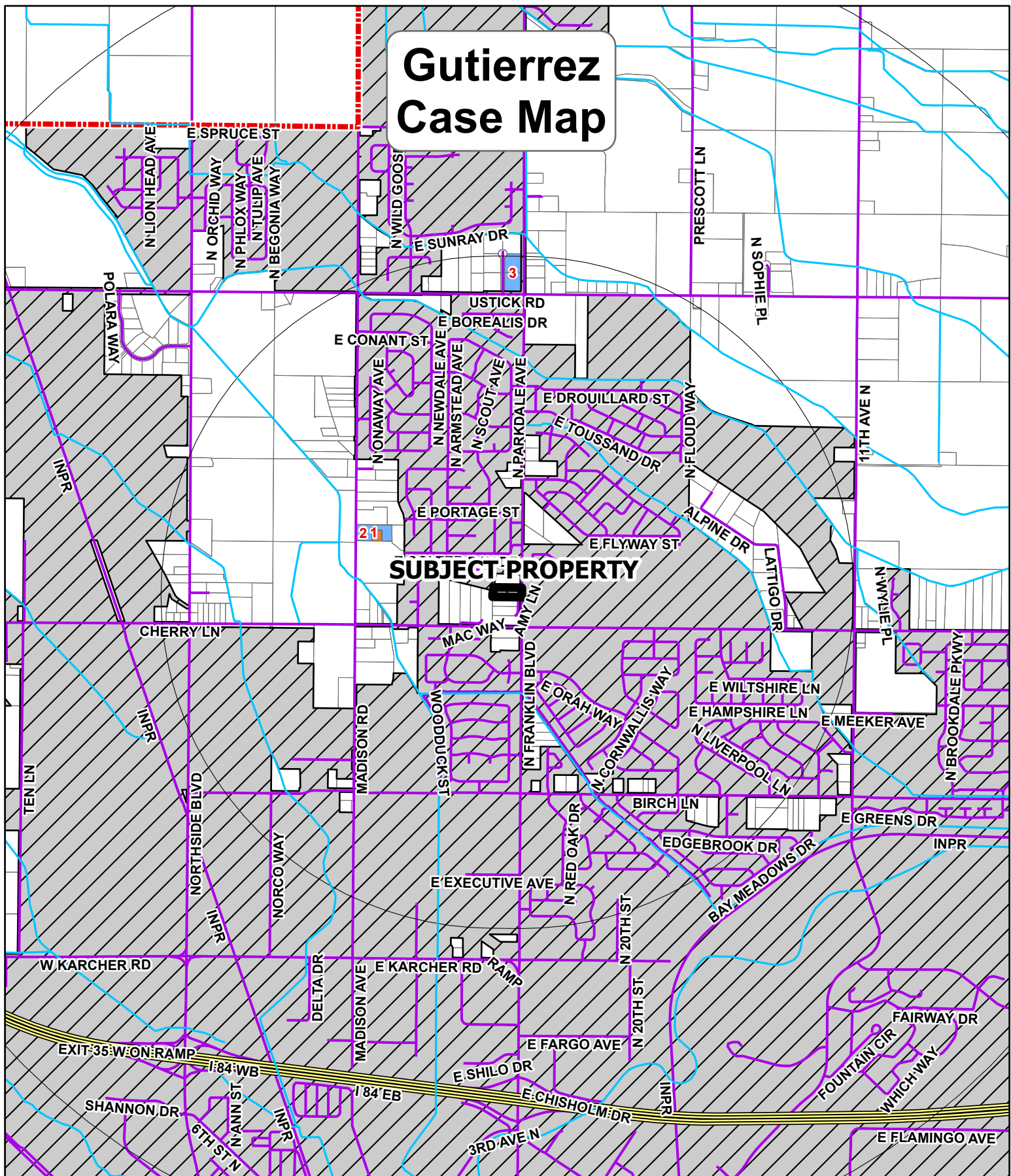


ZONING			
	RR		R2
	CR-RR		C
	R1		C1
	CR-R1		CR-C1
	C2		CR-C2
	M1		CR-M1
	M2		AG






Exhibit 3c



Gutierrez Case Map



YEAR

	2018		2021
	2019		2022
	2020		

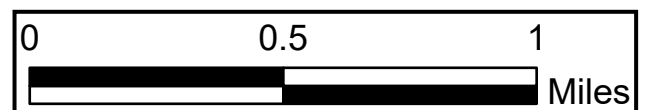
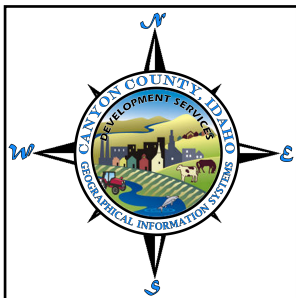
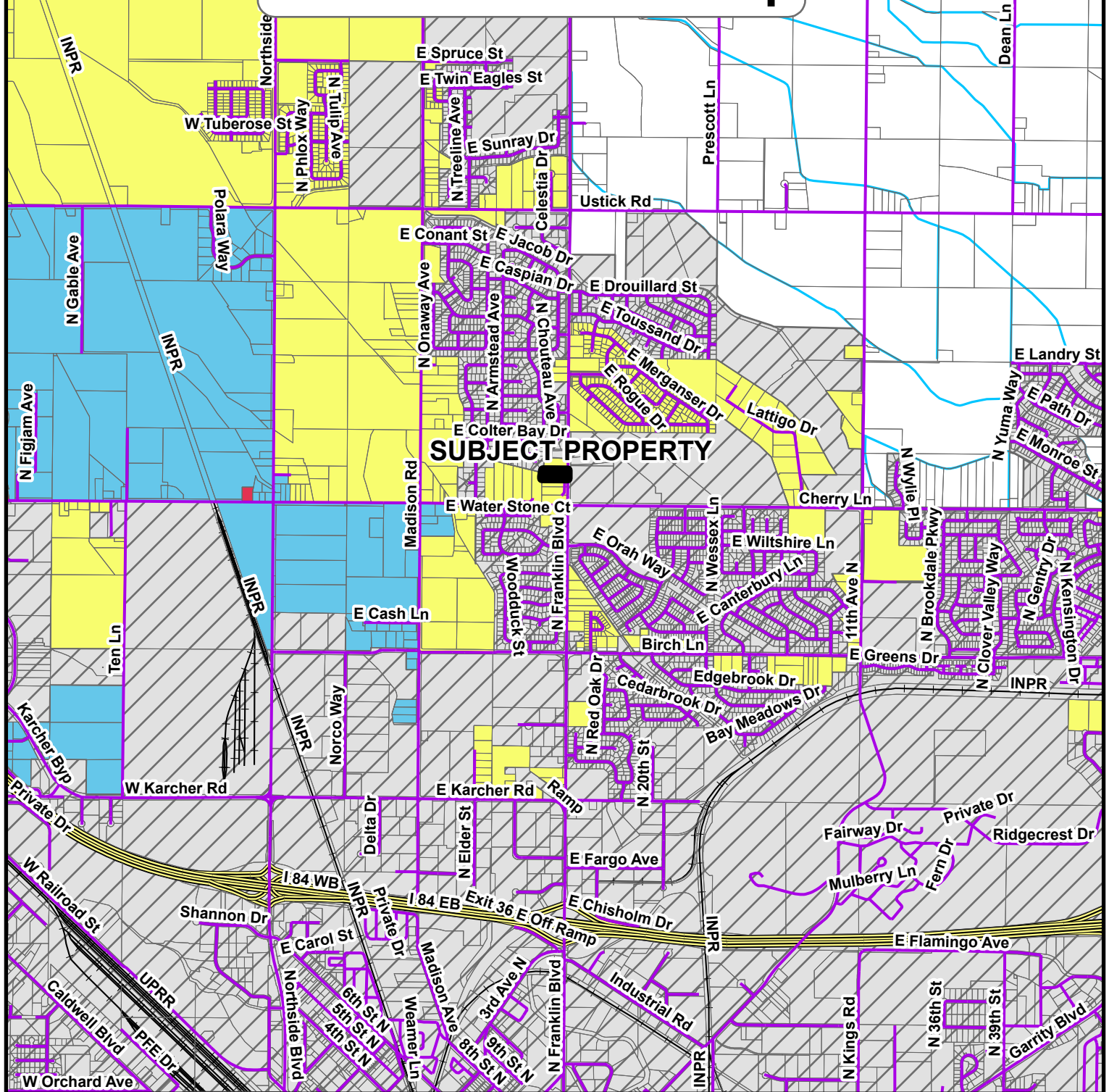


Exhibit 3d

CASE SUMMARY

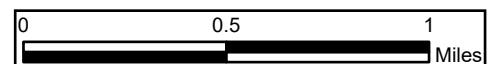
ID	CASENUM	REQUEST	CASENAME	FINALDECIS
1	PH2018-15	Rezone AG to R1	Garner/ Hess Living Trust	APPROVED
2	SD2019-0013	Preliminary Plat	Hesse Acres Sub	APPROVED
3	OR2021-0010	Comp Plan Change to Res	Niblett	APPROVED

Future Land Use map

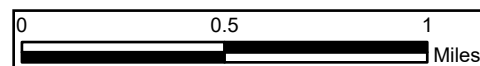


- Legend**
- COMMERCIAL
 - INDUSTRIAL
 - RESIDENTIAL
 - Scenic_Byway

Exhibit 3e

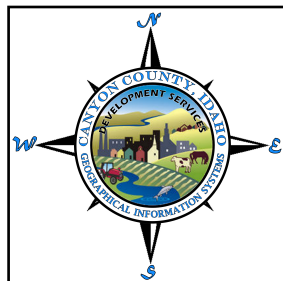


SUBJECT PROPERTY



Gutierrez

Nitrate Priority & Wells



 10.00 - 49.80

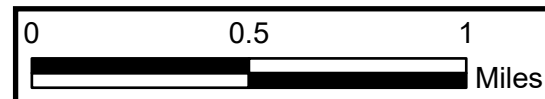


Exhibit 3g

Madelyn Vander Veen

From: Caleb Laclair <laclairc@cityofnampa.us>
Sent: Monday, December 19, 2022 9:50 AM
To: Madelyn Vander Veen
Subject: [External] FW: [External]Legal Notice Gutierrez / CU2022-0038

Nampa Engineering Division has no comment or concern regarding this application.



Caleb LaClair, P.E.
Assistant City Engineer, Engineering
O: 208.468.5422, C: 208.250.2679
[City of Nampa, Like us on Facebook](#)

NAMPAReady

From: Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>
Sent: Monday, December 19, 2022 9:23 AM
To: Robyn Sellers <sellersr@cityofnampa.us>; Caleb Laclair <laclairc@cityofnampa.us>; Kristi Watkins <watkinsk@cityofnampa.us>; Daniel Badger <BadgerD@cityofnampa.us>; Doug Critchfield <critchfieldd@cityofnampa.us>; Nathan Haveman <havemann@cityofnampa.us>; Char Tim <timc@cityofnampa.us>
Subject: [External]Legal Notice Gutierrez / CU2022-0038

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Dear Agency;

You are hereby notified, pursuant to the Joint Exercise of Power Agreement between the City of Nampa and Canyon County, that the Development Services Department has accepted the following application: **CU2022-0038**. Attached for your review is a copy of the letter of intent and a site plan. If you would like additional information please contact Planner Madelyn VanderVeen at Madelyn.vanderveen@canyoncounty.id.gov.

Thank you,



Bonnie Puleo
Sr. Administrative Specialist
Canyon County Development Services
111 No 11th Ave. Suite 310
Caldwell, ID 83605
bonnie.puleo@canyoncounty.id.gov
(208) 454-6631 *direct*
(208) 454-6633 *fax*

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Madelyn Vander Veen

From: Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>
Sent: Tuesday, December 20, 2022 3:46 PM
To: Madelyn Vander Veen
Subject: [External] RE: Agency Notice Gutierrez / CU2022-0038

Good Afternoon, Madelyn.

After careful review of the transmittal submitted to ITD on December 19, 2022, regarding Canyon County's agency notice Gutierrez / CU2022-0038, the Department has no comments or concerns to make at this time.

Thank you,



Niki Benyakhlef
Development Services Coordinator

District 3 Development Services
O: 208.334.8337
C: 208.296.9750
Email: niki.benyakhlef@itd.idaho.gov
Website: itd.idaho.gov

From: Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>
Sent: Monday, December 19, 2022 9:13 AM
To: Rob Johnson Nampa Fire <johnsonre@nampafire.org>; 'johnsonrl@cityofnampa.us' <johnsonrl@cityofnampa.us>; 'jenny.titus@vallivue.org' <jenny.titus@vallivue.org>; Lisa Boyd <lisa.boyd@vallivue.org>; Joseph Palmer <joseph.palmer@vallivue.org>; 'mitch.kiester@phd3.idaho.gov' <mitch.kiester@phd3.idaho.gov>; Jack Nygaard <jack.nygarrrd@phd3.idaho.gov>; 'eddy@nampahighway1.com' <eddy@nampahighway1.com>; Idaho Power <easements@idahopower.com>; Megan Kelly <mkelly@idahopower.com>; 'JESSICA.MANSELL@INTGAS.COM' <JESSICA.MANSELL@INTGAS.COM>; 'MONICA.TAYLOR@INTGAS.COM' <MONICA.TAYLOR@INTGAS.COM>; 'kirk@pioneerirrigation.com' <kirk@pioneerirrigation.com>; D3 Development Services <D3Development.Services@itd.idaho.gov>; Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>; Brian Crawforth <Brian.Crawforth@canyoncounty.id.gov>; 'mstowell@ccparamedics.com' <mstowell@ccparamedics.com>; 'huffj@cityofnampa.us' <huffj@cityofnampa.us>
Subject: Agency Notice Gutierrez / CU2022-0038

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Good morning:

Please see the attached agency notice. Please direct your comments or questions to Planner Madelyn VanderVeen at madelyn.vanderveen@canyoncounty.id.gov

Thank you,



Bonnie Puleo

Sr. Administrative Specialist

Canyon County Development Services

111 No 11th Ave. Suite 310

Caldwell, ID 83605

bonnie.puleo@canyoncounty.id.gov

(208) 454-6631 *direct*

(208) 454-6633 *fax*

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Madelyn Vander Veen

From: Eddy Thiel <eddy@nampahighway1.com>
Sent: Tuesday, January 3, 2023 7:30 AM
To: Madelyn Vander Veen
Subject: [External] FW: Agency Notice Gutierrez / CU2022-0038
Attachments: CU2022-0038.pdf

Good Morning Madelyn,

Nampa Highway District #1 has no comment as the ROW in front of the subject property is annexed by the City of Nampa and they would have access control for this area.

Thank you,

Eddy

Eddy Thiel
ROW
eddy@[nampahighway1.com](mailto:eddy@nampahighway1.com)
4507 12th Ave. Rd. • Nampa, id 83686
TEL 208.467.6576 • FAX 208.467.9916

From: Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>
Sent: Monday, December 19, 2022 9:13 AM
To: Rob Johnson Nampa Fire <johnsonre@nampafire.org>; 'johnsonrl@cityofnampa.us' <johnsonrl@cityofnampa.us>; 'jenny.titus@vallivue.org' <jenny.titus@vallivue.org>; Lisa Boyd <lisa.boyd@vallivue.org>; Joseph Palmer <joseph.palmer@vallivue.org>; 'mitch.kiester@phd3.idaho.gov' <mitch.kiester@phd3.idaho.gov>; Jack Nygaard <jack.nygarrrd@phd3.idaho.gov>; Eddy Thiel <eddy@nampahighway1.com>; Idaho Power <easements@idahopower.com>; Megan Kelly <mkelly@idahopower.com>; 'JESSICA.MANSELL@INTGAS.COM' <JESSICA.MANSELL@INTGAS.COM>; 'MONICA.TAYLOR@INTGAS.COM' <MONICA.TAYLOR@INTGAS.COM>; 'kirk@pioneerirrigation.com' <kirk@pioneerirrigation.com>; 'd3development.services@itd.idaho.gov' <d3development.services@itd.idaho.gov>; 'niki.benyakhlef@itd.idaho.gov' <niki.benyakhlef@itd.idaho.gov>; Brian Crawforth <Brian.Crawforth@canyoncounty.id.gov>; 'mstowell@ccparamedics.com' <mstowell@ccparamedics.com>; 'huffj@cityofnampa.us' <huffj@cityofnampa.us>
Subject: Agency Notice Gutierrez / CU2022-0038

Good morning:

Please see the attached agency notice. Please direct your comments or questions to Planner Madelyn VanderVeen at madelyn.vanderveen@canyoncounty.id.gov

Thank you,



Bonnie Puleo

Sr. Administrative Specialist

Canyon County Development Services

111 No 11th Ave. Suite 310

Caldwell, ID 83605

bonnie.puleo@canyoncounty.id.gov

(208) 454-6631 *direct*

(208) 454-6633 *fax*

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Madelyn Vander Veen

From: Eric Arthur
Sent: Tuesday, January 10, 2023 11:23 AM
To: Madelyn Vander Veen
Subject: R30792 17087 N. Franklin Road

After reviewing Code Enforcement case CDEF2021-0017, it appears the issuance of a CUP for a staging area for the above referenced property would mitigate any current code Enforcement concerns. I recommend proceeding with the CUP application. Let me know if you need anything else on the property. If the CUP is approved, let me know so we can close the Code Enforcement case as "complied". Thanks.

Effective Jan. 3, 2023
Monday, Tuesday, Thursday and Friday
8am – 5pm
Wednesday
1pm – 5pm
**We will not be closed during lunch hour **



Canyon County Development Services

E. Arthur

Code Enforcement Supervisor,
Direct: 208.454.6606
Office: 208.454.7458
111 North 11th Avenue, #310
Caldwell Idaho 83605
www.canyoncounty.id.gov

Madelyn Vander Veen

From: Doug Critchfield <critchfielddd@cityofnampa.us>
Sent: Monday, April 24, 2023 12:24 PM
To: Madelyn Vander Veen
Cc: Rodney Ashby; Caleb Laclair
Subject: [External] RE: [External]Agency Notice / BOCC hearing Gutierrez Appeal CU2022-0038-APL

Madelyn – The location of the property is in a “Medium Density Residential” land use designation on the Nampa Future Land Use Map, with the option to ‘stretch’ the adjacent “Commercial” land use designation over the property. Zoning Districts that could be permitted in this area are RS (Single-Family Residential), RD (Two-Family Duplex), BC (Community Business), or BN (Neighborhood Business). The proposed land use of a landscape business with a staging area, outdoor storage of landscaping materials and equipment for use off-site, and 8 employees in this location is not a permitted land use within the aforementioned zoning districts. Nampa recommends denial of this application.

Thank you - Doug

From: Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>
Sent: Wednesday, April 19, 2023 4:17 PM
To: Caleb Laclair <laclairc@cityofnampa.us>; Kristi Watkins <watkinsk@cityofnampa.us>; Daniel Badger <BadgerD@cityofnampa.us>; Doug Critchfield <critchfielddd@cityofnampa.us>; Nathan Haveman <havemann@cityofnampa.us>; Char Tim <timc@cityofnampa.us>; 'jenny.titus@vallivue.org' <jenny.titus@vallivue.org>; Lisa Boyd <lisa.boyd@vallivue.org>; Joseph Palmer <joseph.palmer@vallivue.org>; 'mitch.kiester@phd3.idaho.gov' <mitch.kiester@phd3.idaho.gov>; Ron Johnson <johnsonrl@nampafire.org>; Rob Johnson Nampa Fire <johnsonre@nampafire.org>; 'eddy@nampahighway1.com' <eddy@nampahighway1.com>; Idaho Power <easements@idahopower.com>; Megan Kelly <mkelly@idahopower.com>; 'JESSICA.MANSELL@INTGAS.COM' <JESSICA.MANSELL@INTGAS.COM>; 'MONICA.TAYLOR@INTGAS.COM' <MONICA.TAYLOR@INTGAS.COM>; 'kirk@pioneerirrigation.com' <kirk@pioneerirrigation.com>; 'd3development.services@itd.idaho.gov' <d3development.services@itd.idaho.gov>; Niki Benyakhlef <niki.benyakhlef@itd.idaho.gov>; Brian Crawforth <Brian.Crawforth@canyoncounty.id.gov>; 'mstowell@ccparamedics.com' <mstowell@ccparamedics.com>; Joe Huff <huffj@cityofnampa.us>
Subject: [External]Agency Notice / BOCC hearing Gutierrez Appeal CU2022-0038-APL

Caution: This email originated from outside of the City of Nampa domain. Do not click on links or open attachments unless you recognize sender email or are sure content is safe. Highlight the suspect email and send using your Phish Button or call the helpdesk at 208-468-5454

Dear Agencies:

Please see the attached agency notice regarding the scheduled Board of County Commissioners’ hearing on this project. We had previously requested your agency provide comments for the noticed land use application and if any agency comments were received, they were included in the Staff report. No response is required unless there is an update to your original comments.

This is the notification that a hearing date of May 31, 2023 at 1:30 pm has been set for this case along with a final deadline for agency comments. **Any written testimony or exhibits received after the deadline will need to be brought to the public hearing and read into the record by the person submitting the information.** If it is a large document that can’t easily be read into the record, the hearing body will determine if they will accept it as a late exhibit.

Please direct your comments or questions to Planner Madelyn Vander Veen at madelyn.vanderveen@canyoncounty.id.gov

Thank you,



Bonnie Puleo

Hearing Specialist

Canyon County Development Services

111 No 11th Ave. Suite 310

Caldwell, ID 83605

bonnie.puleo@canyoncounty.id.gov

(208) 454-6631 *direct*

NEW public office hours **effective January 3, 2023**

Monday, Tuesday, Thursday and Friday

8 am – 5 pm

Wednesday

1 pm – 5 pm

****We will not be closed during lunch hour****

IMPORTANT: The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email by mistake, please notify the sender immediately and do not disclose the contents to anyone or make copies thereof.

5/5/2028

HEARING CASE : MANUEL GUTIERREZ

CASE No: CU2022- 0038-APL

R3077922010

Hello,

My name is Daniel Gramarossa. I received your letter from Canyon County Board of Commissioners .

I will not be able to attend the hearing. I have a physical condition of Tinitus, which makes my hearing difficult, and I may not be able to remember all of what is discussed during the court sessions.

I have known Mr. Gutierrez for eight years. I live two houses away from his house. He is a very nice man and I have had him do outdoor work on my yard several times.

I would not vote against his request for storage of his landscaping materials and equipment on his property.

Best regards,

Daniel Gramarossa

17039 Amy Lane

Nampa Idaho 83687

RECEIVED

MAY - 3 2023

**CANYON COUNTY
COMMISSIONERS**

Exhibit C2



Planning & Zoning Commission - Staff Report

Gutierrez – CU2022-0038

Hearing Date: January 19, 2023

Development Services Department

Owner/Applicant:

Manuel Gutierrez

Representative:

Krista O'Dell & Jose Gutierrez

Staff:

Madelyn Vander Veen, Planning Technician

Tax ID:

R30792

Current Zone:

"A" (Agricultural)

2020 Comprehensive Plan

Future Use Designation:

Residential

Lot Size:

1.59 acres

City Impact Area:

Nampa

Current Uses:

Residential/Staging Area

Applicable Zoning Land Use

Regulations: CCZO §07-02-03, §07-14-29, §07-07-05, §07-10-27, and §09-11-25

Notification:

- Agencies, Full Political, JEPa: 12/19/2022
- Property Owners: 12/29/2022
- Newspaper: 1/3/2022
- Posting: 1/10/2023

Exhibits:

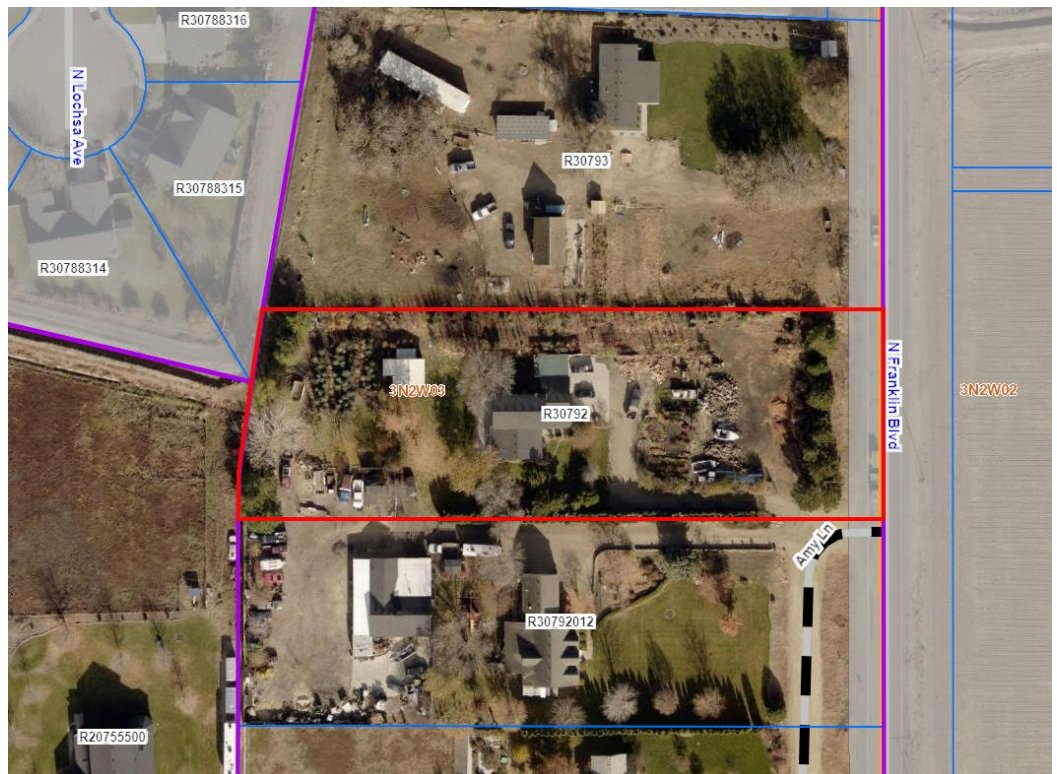
1. Draft Findings of Fact, Conclusions of Law and Order (FCO)
 - Attachment A: Letter of Intent with Site Plan and Land Use Worksheet
2. Neighborhood Meeting
3. **Maps:**
 - a. Aerial
 - b. Vicinity
 - c. Zoning
 - d. Case Map & Report
 - e. Future Land Use
 - f. Nampa Future Land Use
 - g. Nitrate Priority & Wells
4. **Comments:**
 - a. Nampa Engineering Division
 - b. Idaho Transportation Dept.
 - c. Nampa Highway District
 - d. Canyon County Code Enforcement

Request

The applicants, Krista O'Dell & Jose Gutierrez, representing Manuel Gutierrez, are requesting a conditional use permit for a Staging Area located on parcel R30792. The requested use includes storage of landscaping materials and equipment for use off-site. The parcel is zoned "A" (Agricultural). The subject property is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho.

Background

The 1.59-acre parcel was created by conditional use permit in 1987 along with the three parcels to the south (CU2002-747). The property is currently used for residential purposes and as a staging area for a landscaping business. A code enforcement violation case was opened in February 2021 for the staging area operating without a conditional use permit as well as an unpermitted structure (CDEF2021-0017). A building permit is in progress for that structure (BP2022-0177).



Applicable Standards & Regulations

Conditional Use Permit Hearing Criteria (CCZO §07-07-05):

The presiding party shall consider each conditional use permit application by finding adequate evidence to answer the following questions in its FCOs:

- (1) Is the proposed use permitted in the zone by conditional use permit;
- (2) What is the nature of the request;
- (3) Is the proposed use consistent with the comprehensive Plan;
- (4) Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area;

- (5) Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use;
- (6) Does legal access to the subject property for the development exist or will it exist at the time of development;
- (7) Will there be undue interference with existing or future traffic patterns; and
- (8) Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conditional Use Permit Special Conditions (CCZO §07-07-17)

Special conditions may be attached to a conditional use permit including, but not limited to, conditions which:

- (1) Minimize adverse impact, such as damage, hazard, and nuisance, to persons or the subject property or property in the vicinity;
- (2) Control the sequence and timing of development;
- (3) Control the duration of development;
- (4) Designate the exact location and nature of development;
- (5) Require the provision for on site or off-site public facilities or services;
- (6) Require more restrictive standards than those generally required in this chapter; or
- (7) Mitigate the negative impacts of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the county.

Definition – Staging Area (CCZO §07-02-03)

An area where equipment and/or materials are stored for use conducted entirely off site.

Use Standards – Staging Area (CCZO §07-14-29)

- (1) All work shall be conducted off site.
- (2) Business vehicles shall be operable and parked on site, not on a public or private road.
- (3) Persons not employed on the premises may visit the premises for the purpose of picking up equipment and materials to be used elsewhere, including trucks offloading or transferring equipment and/or materials to other vehicles.
- (4) Employees may meet on the premises to share rides to and from job sites.
- (5) Employees' vehicles shall be parked on site and not on a public or private road. (Ord. 16-001, 1-8-2016)

Proposed Use

The request is to use the front area and northern side of the subject parcel for storage of trees, shrubs, equipment, and trucks for Progressive Lawn Care LLC. There are 8 employees who may come to the property to pick up or drop off materials. Hours of operation will not exceed 7am to 7pm, Monday through Friday. The proposed location of the staging area is hard-surfaced with gravel. Existing trees block site of the use from Franklin Blvd and properties to the south. The use does not include a sign.

Site Photos

The following photos were taken on a site visit on January 11, 2023.

Image 1: Taken at entrance of property facing north.



Image 2: Taken at entrance to property facing south.





Image 3: Taken at entrance to staging area facing west.



Image 4: Taken at entrance of staging area facing north.





Image 5: Taken in staging area facing west.



Image 6: Taken in staging area facing south.



Surrounding Land Use/Character

The subject parcel is zoned "A" (Agricultural). Surrounding county parcels are primarily zoned A, R-1, M-1, and M-2. Surrounding city parcels are primarily residential zones, with a "Community Business District/Zone" zoned parcel directly to the east. The table below is an analysis of the surrounding area and county zoning.

Existing Conditions		Zoning
North	Nampa subdivisions	A, in city
East	Nampa – large residential and community business zoned parcels	in city
South	1-2 acre county homesites, Nampa subdivisions	A, in city
West	2-3 acre county homesites, Nampa subdivisions, some industrial-zoned county parcels	A, R-1, M-1, M-2, in city

A (Agricultural), R-R (Rural Residential), R-1 (Single-Family Residential), C-1 (Neighborhood Commercial), C-2 (Service Commercial), M-1 (Light Industrial), CR (Conditional Rezone).

Based on the site visit photos and existing conditions of the area, the area is predominantly residential with some commercial and industrial zoning.

Comprehensive Plan

The subject property is designated as "Residential" on the future land use plan within the 2020 Canyon County Comprehensive Plan (Exhibit 3e). The request is generally consistent with the following policies and goals of the Comprehensive Plan:

- Property Rights Policy No. 1: *"No person shall be deprived of private property without due process of law."*
- Property Rights Policy No. 11: *"Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods."*
- Population Goal No. 2: *"To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs."*
- Economic Development Policy No. 2: *"Support existing business and industry in the county."*
- Land Use Goal No 2: *"To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area."*
- Land Use Goal No. 3: *"Use appropriate techniques to mitigate incompatible land uses."*

Facilities

Based on the applicant's letter of intent and land use worksheet (Exhibit 1, Attachment A), the property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

Access

The property has existing access onto N Franklin Blvd, a public road. No new access points are proposed. Nampa Engineering Division has jurisdiction over the road and did not comment on access.

Essential Services

The use is not anticipated to impact school, fire, police, or emergency services. All essential services were notified of the proposed use. No comments were received indicating there would be an impact to essential services.

Analysis

The use, as proposed and conditioned, is not anticipated to have a negative impact on the surrounding area. In accordance with the Staging Area Use Standards (CCZO §07-14-29), all work is conducted off-

site, clients never visit the premises, and employee and/or business vehicles shall be parked on site rather than in the right of way (Condition 5). The use is already obscured from the road and some surrounding properties by foliage which shall be maintained (Condition 6). Approval of the use would resolve the code enforcement violation on the property (Exhibit 4d). No issues were brought up by agency or public comments.

Area of City Impact—Nampa

Pursuant to Section 09-11-25(1) of the Canyon County Code (Area of City Impact Agreement – Nampa): *“All land use applications submitted to Canyon County including, but not limited to, rezones, conditional rezones, conditional use permits, variances and land divisions requiring notification of a public hearing, shall be referred to the city of Nampa in the manner as provided for in subsection 09-11-17(3) of this article.”*

- Section 09-11-17(3): *“All proposals to amend Canyon County's comprehensive plan, which may pertain to the Nampa area of city impact, but which do not originate from the city of Nampa, shall be referred to the city of Nampa's planning and community development director at least thirty (30) calendar days prior to the first county public hearing on the matter and the city of Nampa may make a recommendation before or at said public hearing. After the city receives its initial thirty (30) days' notice, any further notice of proposed changes to the proposal will be provided to the city of Nampa at least seven (7) days prior to the public hearing. If a recommendation is received by the county from the city of Nampa, it shall be given consideration by the county, provided it is factually supported, but such recommendation shall not be binding on the county. If no recommendation is received, Canyon County may proceed without the recommendation of the city of Nampa.”*

The conditional use permit application submittal was sent to City of Nampa on December 19, 2022 in compliance with Section 09-11-25(1) of the agreement. No comments were received other than an email from Nampa Engineering Division stating that they have “no comment or concern” (Exhibit 4a).

Comments

Public Comments:

At the time of drafting the staff report, no public comments were received.

Agency Comments:

Affected agencies were notified on December 19th, 2022. Nampa Engineering Division, Idaho Transportation Department, and Nampa Highway District each provided an email stating they have no comments (Exhibits 4a, 4b, 4c). Code Enforcement Officer Eric Arthur sent an email stating that approval of this application would resolve the code violation (Exhibit 4d).

Decision Options

- 1) The Planning and Zoning Commission may approve the conditional use permit as conditioned and/or amended;
- 2) The Planning and Zoning Commission may deny the conditional use permit and direct staff to make findings of fact to support this decision; or
- 3) The Planning and Zoning Commission may continue the discussion and request additional information on specific items.

Recommendation

Staff recommends the Planning and Zoning Commission open a public hearing and discuss the proposed Conditional Use Permit. Staff is recommending **approval** of the request and has provided findings of fact, conclusions of law, and recommended conditions of approval for the Planning and Zoning Commission's consideration found in Exhibit 1.



Findings of Fact, Conclusions of Law, Conditions of Approval and Order

Conditional Use Permit - CU2022-0038

Findings of Fact

1. The applicants, Krista O'Dell & Jose Gutierrez, representing Manuel Gutierrez, are requesting a conditional use permit for a Staging Area located on parcel R30792. The application was submitted on August 11, 2022.
2. The property is zoned "A" (Agricultural).
3. The subject parcel, R30792, is located at 17087 N Franklin Blvd, Nampa; also referenced as a portion of the SE¼ of Section 5, Township 2N, Range 1W; BM; Canyon County, Idaho; and is approximately 1.59 acres in size.
4. The property is located within the Nampa City Impact Area.
5. Parcel R30792 has frontage along Franklin Blvd, a public road.
6. The property is located within the Nampa Fire District. No comments were received from that district.
7. A neighborhood meeting was conducted on June 29, 2022 in accordance with CCZO §07-01-15(1).
8. The request was noticed/published in accordance with Canyon County Code §07-05-01. Property owners within 600 feet of the property boundaries were noticed on December 29, 2022. Agencies were noticed on December 19, 2022. Newspaper notice was published on January 3, 2023. The property was posted on January 10, 2023.
9. All recorded herein consists of exhibits provided in the public hearing staff report, testimony and exhibits provided during the public hearing on January 19, 2023 and all information in case file CU2022-0038.

Conclusions of Law

For case file CU2022-0038, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (CCZO §07-07-05):

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The proposed use is permitted in the zone by conditional use permit.

Finding: The parcel is zoned "A" (Agricultural). Pursuant to CCZO §07-10-27, staging areas are allowed in the "A" (Agricultural) Zone subject to a conditional use permit. The applicants submitted a conditional use permit application on August 11, 2022 in accordance with CCZO §07-07-03.

2. What is the nature of the request?

The applicant is requesting a Staging Area within an "A" (Agricultural) Zone. The use will be contained within the 1.59-acre parcel which has frontage on Franklin Blvd, a public road.

The applicant's letter of intent and land use worksheet (Attachment A) states the request is to use the property along the side and front for storage of trees, shrubs, equipment, and trucks for Progressive Lawn Care LLC. There are 8 employees who may come to the property to pick up or drop off materials. Hours of operation will not exceed 7am to 7pm, Monday through Friday (Condition 4). The proposed location of the staging area, east of the house, is hard-surfaced with gravel. Existing trees block site of the use from Franklin Blvd and properties to the south. The use does not include a sign.

3. Is the proposed use consistent with the Comprehensive Plan?

Conclusion: The proposed use is consistent with the Comprehensive Plan.

Finding: The subject property is designated as "Residential" on the future land use plan within the 2020 Canyon County Comprehensive Plan (Exhibit 3e). The use is consistent with the following Canyon County Comprehensive Plan policies:

Exhibit 1

- Property Rights Policy No. 1: *“No person shall be deprived of private property without due process of law.”*
- Property Rights Policy No. 11: *“Property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.”*
- Population Goal No. 2: *“To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs.”*
- Economic Development Policy No. 2: *“Support existing business and industry in the county.”*
- Land Use Goal No 2: *“To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area.”*
- Land Use Goal No. 3: *“Use appropriate techniques to mitigate incompatible land uses.”*

4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: The proposed use will not be injurious to other property in the immediate vicinity and will not negatively change the essential character of the area.

Finding: No evidence has been provided that the proposed use would be injurious to other property in the vicinity nor will it negatively change the essential character of the area. To minimize potential impacts to existing and future uses in the area, conditions of approval are included.

5. Will adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems be provided to accommodate the use;

Conclusion: The property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

Finding: Based on the applicant’s letter of intent and land use worksheet (Exhibit 1, Attachment A), the property has an existing well, septic, and surface irrigation which are adequate for the proposed use.

6. Does legal access to the subject property for the development exist or will it exist at the time of final plat;

Conclusion: Legal access does currently exist.

Finding: The property has access onto N Franklin Blvd which is a public road. No new access points are proposed. Nampa Engineering Division has jurisdiction over the road and did not comment on access.

7. Will there be undue interference with existing or future traffic patterns?

Conclusion: There will not be undue interference with existing or future traffic patterns.

Finding: Nampa Highway District, Idaho Transportation Department, and Nampa Highway District each provided an email stating they have no comments. The proposed use is not expected to generate enough traffic to require a traffic impact study, or to negatively affect existing traffic patterns.

Employees may enter and exit the property from 7 am to 7 pm, Monday-Friday. The staging area includes space for parking on site with gravel surface. All applicable off-street parking requirements shall meet CCZO Section 07-13-01 and 07-13-03.

8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conclusion: Necessary essential services will be provided to accommodate the use. The use is not anticipated to impact essential services or require additional public funding.

Finding: The parcel is in the Nampa Fire District. The use is not anticipated to impact essential services or require additional public funding. All essential services were notified of the proposed use. No agency comments were received to indicate that there would be an impact to essential services.

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the subject property and the proposed use.
2. Historic irrigation lateral, drain, ditch flow patterns and associated easements shall be maintained and protected unless approved in writing by the local irrigation district or ditch company.
3. The facility shall be developed in general conformance with the Letter of Intent and Site Plan as conditioned. The Site Plan and Letter of Intent are attached as FCO’s Attachment A dated June 16th, 2022.
4. Hours of operation shall not exceed 7:00 a.m. to 7:00 p.m., Monday through Friday.
5. All employee and business vehicles shall be parked on-site. Employee parking is prohibited on the public right-of-way.
6. Existing site-obscuring landscaping around the perimeter of the property shall be maintained.
7. Structures and fences shall be maintained in good repair. Equipment, weeds and trash shall be maintained so as not to become a public nuisance (Canyon County Code §02-01-05).
8. All exterior lighting shall be downward facing and directed away from adjacent properties.

Order

Based upon the Findings of Fact, Conclusions of Law and Conditions of Approval enumerated above, the Planning and Zoning Commission **approves** Case CU2022-0038, a request for a Conditional Use Permit to allow a staging area on tax parcel R30792.

APPROVED this _____ day of _____, 2023.

PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

Robert Sturgill, Chairman

State of Idaho)

SS

County of Canyon County)

On this _____ day of _____, in the year of 2022, before me _____, a notary public, personally appeared _____, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: _____

My Commission Expires: _____

ATTACHMENT A

MASTER APPLICATION

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #310, Caldwell, ID 83605

zoninginfo@canyoncounty.id.gov

Phone: 208-454-7458

Fax: 208-454-6633



PROPERTY OWNER	OWNER NAME: Manuel Gutierrez
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 602 2211 EMAIL: mgutierrez10324@gmail.com
I consent to this application and allow DSD staff / Commissioners to enter the property for site inspections. If owner(s) are a business entity, please include business documents, including those that indicate the person(s) who are eligible to sign.	
Signature: <u>Manuel Gutierrez</u> Date: <u>08-04-22</u>	

(AGENT) ARCHITECT ENGINEER BUILDER	CONTACT NAME: Jose Gutierrez
	COMPANY NAME: Progressive Lawn Care LLC
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 869 3334 EMAIL: progressive.lawn.care.jose@gmail.com

SITE INFO	STREET ADDRESS: 17087 N Franklin Blvd Naupa ID 83687	
	PARCEL #: R30792	LOT SIZE/AREA:
	LOT:	BLOCK:
	QUARTER:	SECTION: 3 TOWNSHIP: 3N RANGE: 2W
	ZONING DISTRICT:	FLOODZONE (YES/NO):

HEARING LEVEL APPS	<input checked="" type="checkbox"/> CONDITIONAL USE	<input type="checkbox"/> COMP PLAN AMENDMENT	<input type="checkbox"/> CONDITIONAL REZONE
	<input type="checkbox"/> ZONING AMENDMENT (REZONE)	<input type="checkbox"/> DEV. AGREEMENT MODIFICATION	<input type="checkbox"/> VARIANCE > 33%
	<input type="checkbox"/> MINOR REPLAT	<input type="checkbox"/> VACATION	<input type="checkbox"/> APPEAL
	<input type="checkbox"/> SHORT PLAT SUBDIVISION	<input type="checkbox"/> PRELIMINARY PLAT SUBDIVISION	<input type="checkbox"/> FINAL PLAT SUBDIVISION

DIRECTORS DECISION APPS	<input type="checkbox"/> ADMINISTRATIVE LAND DIVISION	<input type="checkbox"/> EASEMENT REDUCTION	<input type="checkbox"/> SIGN PERMIT
	<input type="checkbox"/> PROPERTY BOUNDARY ADJUSTMENT	<input type="checkbox"/> HOME BUSINESS	<input type="checkbox"/> VARIANCE 33% >
	<input type="checkbox"/> PRIVATE ROAD NAME	<input checked="" type="checkbox"/> TEMPORARY USE	<input type="checkbox"/> DAY CARE
	<input type="checkbox"/> OTHER		

CASE NUMBER: CU2022-0038	DATE RECEIVED: 8/11/2022
RECEIVED BY: SH	APPLICATION FEE: \$950.00 <input checked="" type="checkbox"/> MO <input type="checkbox"/> CC <input type="checkbox"/> CASH

Revised 3/1/22

June 16, 2022

Canyon County Development Service Dept
111 North 11th Ave #140
Caldwell, ID 83605

To Whom It May Concern:

I would like to apply for a Conditional Use Permit for my property located at 17087 N Franklin Blvd, Nampa ID 83687. I own a small landscaping company – Progressive Lawn Care LLC. Along the side of the property, I have trees and shrubs organized in a few rows. These job materials are used for landscaping projects and we rotate them as we use them up for jobs. This area is for storage purposes only as customers or clients never visit the property. We would appreciate the opportunity to continue to use this area for materials storage for my company.

The permit that we are applying for is permitted in the zone.

The nature of the request is for storage for our small business.

The comprehensive plan is consistent with our proposed use.

The proposed use will not be injurious to any other property or will not negatively change the essential character of the area/property.

There is adequate water, sewer, irrigation, drainage, and stormwater drainage facilities to accommodate this request.

Legal access already exists for the property.

There will not be an undue interference with traffic patterns (existing or future).

Essential services will not be necessary to accommodate this request.

Thank you for your consideration in this request.

With Regard,



Jose Gutierrez, Owner
Progressive Lawn Care LLC


Elbia G. Limon, Alexa L. Gutierrez
Manuel L. Gutierrez
17083 Amy Lane
Nampa, ID 83687
208-919-1367

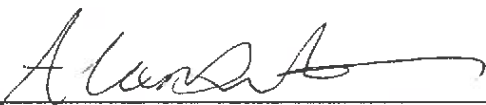
September 22, 2022

Hello Ms. Vander Veen,

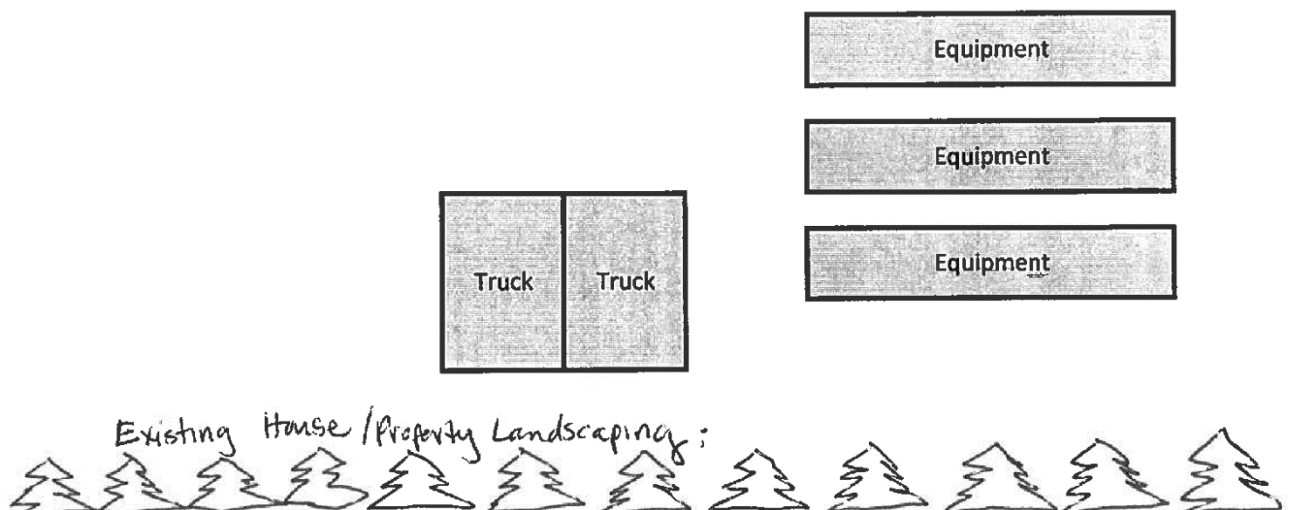
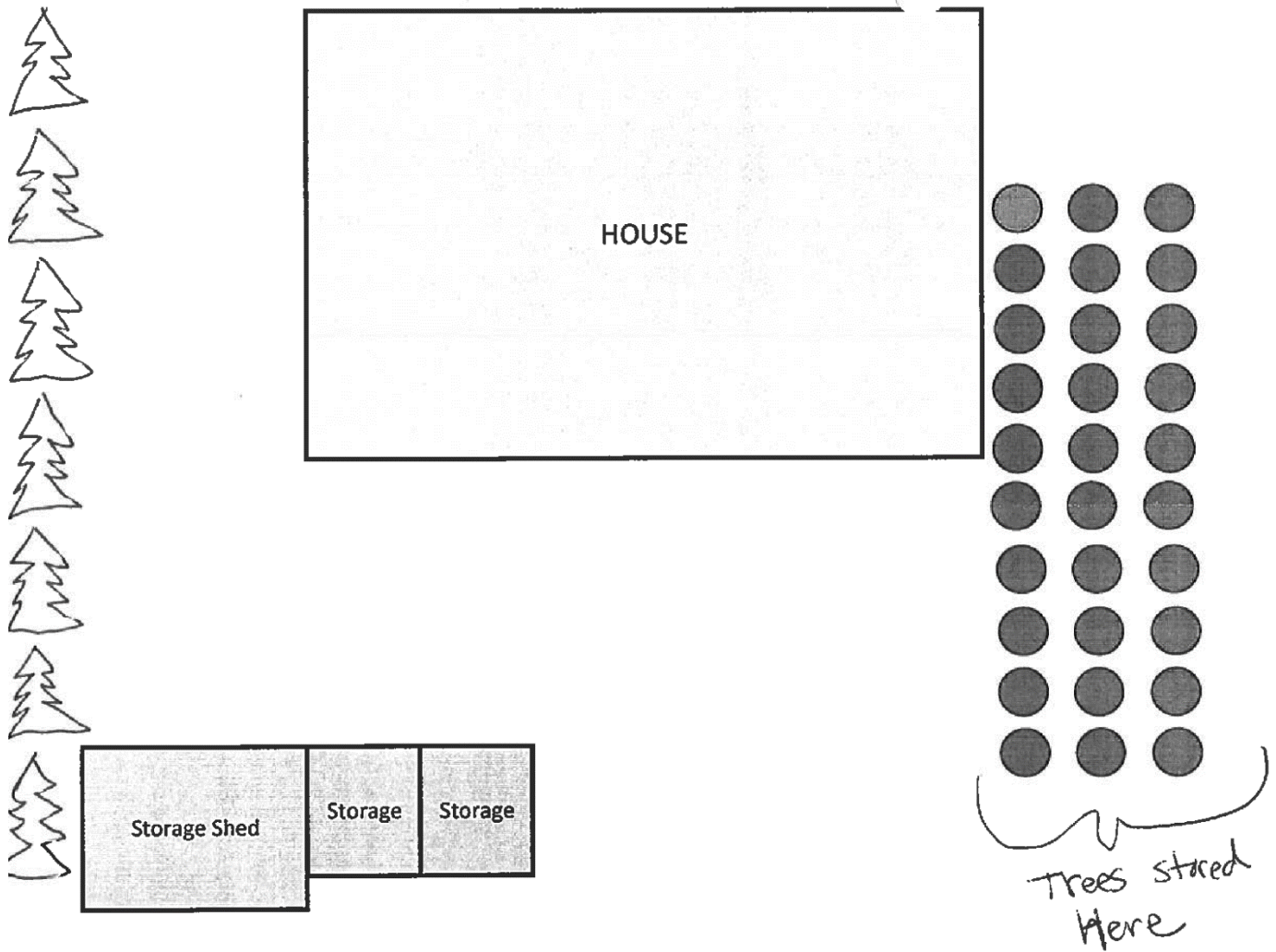
We are writing to you today regarding the conditional permit (CU2022-0038) for the property located at 17087 N. Franklin Blvd in Nampa, Idaho. We've come to an agreement, and we have decided to allow the business Progressive Lawn Care, LLC to continue operating with the conditional permit approval.

Please let us know if you have any questions, we sincerely appreciate your time and understanding in this matter. Please find enclosed our three signatures.

 Date 9/23/22
Elbia G. Limon

 Date 9/23/22
Alexa L. Gutierrez

 Date 9/23/22
Manuel L. Gutierrez



LAND USE WORKSHEET

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #140, Caldwell, ID 83605

www.canyonco.org/dsd.aspx Phone: 208-454-7458 Fax: 208-454-6633



Required for Conditional Use Permit, Comprehensive Plan and Zoning Ordinance Amendment Applications

PLEASE CHECK ALL THAT APPLY TO YOUR REQUEST:

GENERAL INFORMATION

- 1. DOMESTIC WATER:** ☒ Individual Domestic Well ☐ Centralized Public Water System ☐ City
☐ N/A – Explain why this is not applicable: _____
☐ How many Individual Domestic Wells are proposed? _____

- 2. SEWER (Wastewater)** ☒ Individual Septic ☐ Centralized Sewer system
☐ N/A – Explain why this is not applicable: _____

3. IRRIGATION WATER PROVIDED VIA:

- ☒ Surface ☐ Irrigation Well ☐ None

4. IF IRRIGATED, PROPOSED IRRIGATION:

- ☐ Pressurized ☐ Gravity

5. ACCESS:

- ☐ Frontage ☐ Easement Easement width _____ Inst. # _____

6. INTERNAL ROADS:

- ☒ Public ☐ Private Road User's Maintenance Agreement Inst # _____

7. FENCING

- ☐ Fencing will be provided (Please show location on site plan)

Type: chain link fencing Height: _____

8. STORMWATER:

- ☐ Retained on site ☐ Swales ☐ Ponds ☐ Borrow Ditches

☐ Other: _____

9. SOURCES OF SURFACE WATER ON OR NEARBY PROPERTY: (i.e. creeks, ditches, canals, lake)

None

RESIDENTIAL USES

1. NUMBER OF LOTS REQUESTED: n/a

- ☐ Residential _____ ☐ Commercial _____ ☐ Industrial _____
☐ Common _____ ☐ Non-Buildable _____

2. FIRE SUPPRESSION:

- ☐ Water supply source: _____

3. INCLUDED IN YOUR PROPOSED PLAN?

- ☐ Sidewalks ☐ Curbs ☐ Gutters ☐ Street Lights ☐ None

NON-RESIDENTIAL USES

1. SPECIFIC USE: Storage Area on side of property for trees.

2. DAYS AND HOURS OF OPERATION:

- ☐ Monday _____ to _____
☐ Tuesday _____ to _____
☐ Wednesday _____ to _____
☐ Thursday _____ to _____
☐ Friday _____ to _____
☐ Saturday _____ to _____
☐ Sunday _____ to _____

3. WILL YOU HAVE EMPLOYEES? ☒ Yes If so, how many? 8 ☐ No

4. WILL YOU HAVE A SIGN? ☐ Yes ☒ No ☐ Lighted ☐ Non-Lighted

Height: _____ ft Width: _____ ft Height above ground: _____ ft

What type of sign: _____ Wall _____ Freestanding _____ Other

5. PARKING AND LOADING:

How many parking spaces? A few employees leave personal vehicles parked in driveway / near driveway during the day while working

Is there is a loading or unloading area? n/a

ANIMAL CARE RELATED USES

1. MAXIMUM NUMBER OF ANIMALS: n/a

2. HOW WILL ANIMALS BE HOUSED AT THE LOCATION?

☐ Building ☐ Kennel ☐ Individual Housing ☐ Other _____

3. HOW DO YOU PROPOSE TO MITIGATE NOISE?

☐ Building ☐ Enclosure ☐ Barrier/Berm ☐ Bark Collars

4. ANIMAL WASTE DISPOSAL

☐ Individual Domestic Septic System ☐ Animal Waste Only Septic System

☐ Other: _____

NEIGHBORHOOD MEETING SIGN-UP

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #140, Caldwell, ID 83605

www.canyonco.org/dsd.aspx Phone: 208-454-7458 Fax: 208-454-6633



NEIGHBORHOOD MEETING SIGN UP SHEET

CANYON COUNTY ZONING ORDINANCE §07-01-15

Applicants shall conduct a neighborhood meeting for any proposed comprehensive plan amendment, zoning map amendment (rezone), subdivision, variance, conditional use, zoning ordinance map amendment, or other requests requiring a public hearing.

SITE INFORMATION

Site Address: 17087 N Franklin Blvd	Parcel Number: R30792	
City: Nampa	State: ID	ZIP Code: 83687
Notices Mailed Date: 6-17-22	Number of Acres:	Current Zoning:
Description of the Request: Maintain Storage Area for trees/shrubs along side of property.		

APPLICANT / REPRESENTATIVE INFORMATION

Contact Name: Jose Gutierrez		
Company Name: Progressive Lawn Care LLC		
Current address: 17087 N Franklin Blvd		
City: Nampa	State: ID	ZIP Code: 83687
Phone: 208 869 3334	Cell: 208 869 3334	Fax:
Email: progressive.lawn.care.jose@gmail.com		

MEETING INFORMATION

DATE OF MEETING: 6-29-22	MEETING LOCATION: 17087 N Franklin Blvd	
MEETING START TIME: 8:00pm	MEETING END TIME:	
ATTENDEES:		
NAME (PLEASE PRINT)	SIGNATURE:	ADDRESS:
1. DANIEL GRAMAROSSA		17039 AMY LANE, NAMPA
2. Abraham Padilla Santoyo		17137 N FRANKLIN BLVD, Nampa
3. LONNIE JUSTICE		17169 N FRANKLIN BLVD, NAMPA
4.		
5.		
6.		
7.		
8.		
9.		

10.
11.

12.
13.
14.
15.
16.
17.
18.
19.
20.

NEIGHBORHOOD MEETING CERTIFICATION:

I certify that a neighborhood meeting was conducted at the time and location noted on this form and in accordance with Canyon County Zoning Ordinance § 07-01-15.

APPLICANT/REPRESENTATIVE (Please print):

Jose Gutierrez

APPLICANT/REPRESENTATIVE (Signature): Jose Gutierrez

DATE: 07/19/2022

Notice of Neighborhood Meeting
Conditional Use Permit
Pre-application requirement for a public hearing

Date: 06/17/22

Dear Neighbor –

We are in the process of submitting an application for a Conditional Use Permit (or variance, zoning ordinance map amendment, expansion, or extension or nonconforming uses, etc.) to Canyon County Development Services (DSD). One of the requirements necessary prior to submit the application is to hold a “neighborhood meeting” and provide information to our surrounding neighbors.

(Canyon County Zoning Ordinance 07-01-15)

This meeting is for informational purposes and to receive feedback from you as we move through the application process. This is not a Public Hearing before a governing body of the County. Once our application has been submitted and processed, a public hearing date will be scheduled. Prior to the scheduled date you will receive an official notification from Canyon County DSD regarding the public hearing via mail, newspaper publication, and /or a display on the property for which the Conditional Use Permit (or other case type) is applied.

The Neighborhood Meeting details are as follows:

Date: 06/29/22 (Wednesday)
Time: 8:00 pm
Location: 17087 N Franklin Blvd, Nampa ID 83687

The project is summarized below:

Site Location: 17087 N Franklin Blvd, Nampa ID 83687

We are proposing to be continued to maintain the current storage area for our trees and shrubs located along the side of the property. The trees and shrubs are neatly organized into rows. We use this as a storage area only. Landscaping customers or clients never visit our property. We rotate the inventory of trees and shrubs frequently as we use these materials for landscaping projects.

We look forward to the neighborhood meeting and encourage you to attend. At that time we will answer any questions that you may have.

Please do not call the Canyon County Development Services regarding this meeting. This is a pre-application requirement and we have not submitted the application for consideration at this time. The county currently has not information on this project.

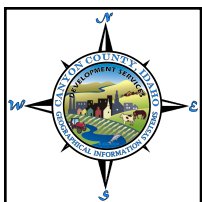
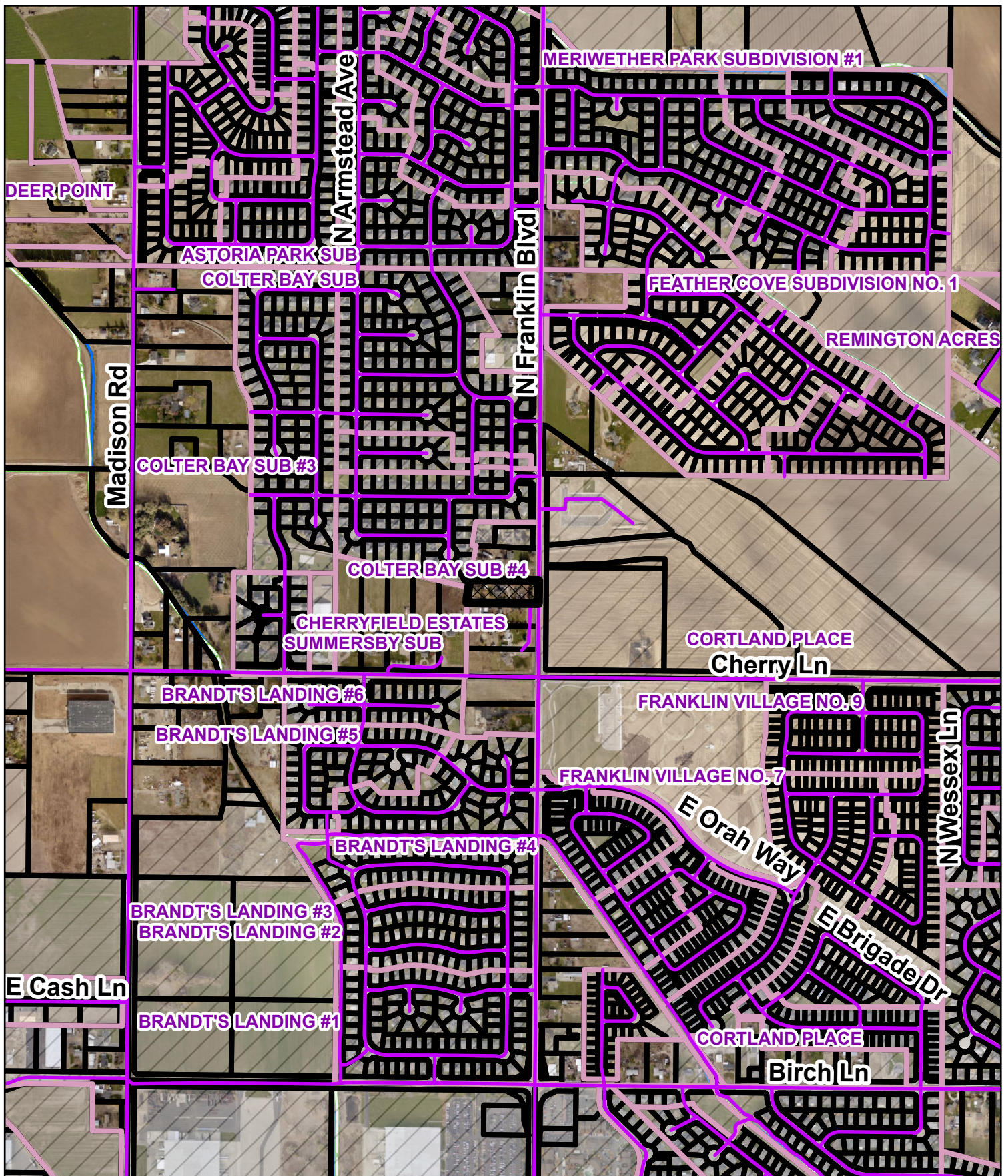
If you have questions prior to this meeting, please contact me at 208-869-3334.

Sincerely,

Jose Gutierrez, Owner
Progressive Lawn Care LLC

PARCEL_NO	OwnerName	Address	City	State	ZipCode
R07925789	WELLMAN ROBIN L	16491 11TH AVE N	NAMPA	ID	83687
R07925787	BULLOCK MARION T	8118 E WATER STONE CT	NAMPA	ID	83687
R07925786	HOLLIDAY JOSEPH MICHAEL	8112 E WATER STONE CT	NAMPA	ID	83687
R07925788	CORRELL JENNIFER L	8130 E WATER STONE CT	NAMPA	ID	83687
R20939010	BRANDT DONALD KEITH	203 11TH AVE S	NAMPA	ID	83651
R20939010A	LOVE INC OF TREASURE VALLEY	PO BOX 3404	NAMPA	ID	83653
R20939	BRANDT DONALD KEITH	203 11TH AVE S	NAMPA	ID	83651
R20945014	NAMPA CITY OF	411 THIRD ST S	NAMPA	ID	83651
R20755501	WHISTLER AMY E	8130 MAE WAY	NAMPA	ID	83687
R20755503	OVERMAN JOSEPH D	8200 MAC WAY	NAMPA	ID	83687
R20755500	PINEDA MARIA OLIVIA	8100 MAC WAY	NAMPA	ID	83687
R20755502	STEWART DARELL C	8170 MAC WAY	NAMPA	ID	83687
R30788300	FRANK DENNIS H	17234 N RONAN AVE	NAMPA	ID	83687
R30788308	ROSAS MANUEL MENDOZA	8193 E SUN RIVER ST	NAMPA	ID	83687
R30788309	CRETAL LEON	8179 E SUN RIVER ST	NAMPA	ID	83687
R30788310	GRANDINETTI MELISSA A	8161 E SUN RIVER ST	NAMPA	ID	83687
R30788312	MILLER SHANNON A	17183 N LOCHSA AVE	NAMPA	ID	83687
R30788319	PEYCHEV NIKOLAY A	17228 N LOCHSA AVE	NAMPA	ID	83687
R30788321	O MALLEY DAVID T	8057 E COLTER BAY DR	NAMPA	ID	83687
R30788331	SHAW STEVEN	8128 E SUN RIVER ST	NAMPA	ID	83687
R30788334	HANSON PATRICIA L TRUST	8178 E SUN RIVER ST	NAMPA	ID	83687
R30791010	TUSTISON LONNIE D	17169 N FRANKLIN BLVD	NAMPA	ID	83687
R30791010A	LACASSE CHESTER	17187 N FRANKLIN BLVD	NAMPA	ID	83687
R30793	SANTOYO ABRAHAM PADILLA	17137 N FRANKLIN RD	NAMPA	ID	83687
R30788311	PLUMMER JONATHAN L	8145 E SUN RIVER ST	NAMPA	ID	83687
R30788317	BRADBURN DAVID J	17196 N LOCHSA AVE	NAMPA	ID	83687
R30788323	RENSVOLD HARLAN AND KATHLEEN FAMILY TRUST	8025 E COLTER BAY DR	NAMPA	ID	83687
R30788324	HERMAN JEFFREY	19020 33RD AVE W NO 370	LYNNWOOD WA		98036
R30788329	CONNER DAVID M	8145 E COLTER BAY DR	NAMPA	ID	83687
R30788333	TUTOGI MARLENE	8162 E SUN RIVER ST	NAMPA	ID	83687
R30792011	LOPEZ NOE ALEX	PO BOX 1742	NAMPA	ID	83653
R30792012	LIMON ELBIA	17083 AMY LN	NAMPA	ID	83651
R30788301	SHELDEN GLEN A	17233 N JUDITH AVE	NAMPA	ID	83687-9272

R30788315	YEOMAN NANCY LEE	17168 N LOCHSA AVE	NAMPA	ID	83687	
R30788318	TROLINGER MICHAEL	17212 N LOCHSA AVE	NAMPA	ID	83687	
R30788320	GARCIA JOEL	8073 E COLTER BAY DR	NAMPA	ID	83687	
R30788328	ROSA STEVEN S	8161 E COLTER BAY DR	NAMPA	ID	83687	
R30788290	COLTER BAY HOMEOWNERS ASSOCIATION INC	515 S FITNESS PL STE 120	EAGLE	ID	83616	
R30788297	PARMANTIER SEBASTIAN	8114 E COLTER BAY DR	NAMPA	ID	83687	
R30788298	ROWAN ERIC P	8098 E COLTER BAY DR	NAMPA	ID	83687	
R30788313	FERRIN ROBERT HITE	17169 N LOCHSA AVE	NAMPA	ID	83687	
R30788314	PLUMB BILLY RAL	17154 N LOCHSA AVE	NAMPA	ID	83687	
R30788316	WATSON MARK PEREGO SR	17182 N LACHSA AVE	NAMPA	ID	83687	
R30788322	ZOROYA NICHOLAS M	8041 E COLTER BAY DR	NAMPA	ID	83687	
R30788332	CHIN CHRISTINE	PO BOX 2998	CARMEL	CA	93921	
R30792	GOMEZ JOSE	PO BOX 298	ROUND LAKE	IL	60073-0298	
R30792010	GRAMAROSSA DANIEL	17039 AMY LN	NAMPA	ID	83687	
R30788330	VASILCHENKO ILIA	8129 COLTER BAY DR	NAMPA	ID	83687	
R31014011	BRANDT DON	203 11TH AVE S	NAMPA	ID	83651	



Legend

- Wetlands
- City_Limits

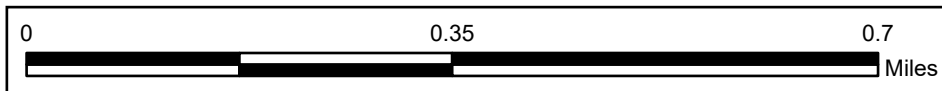


Exhibit 3a

Gutierrez Small Vicinity Map

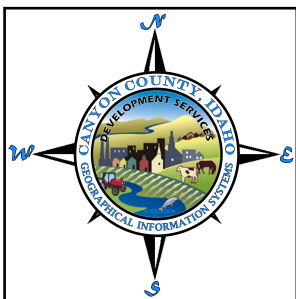
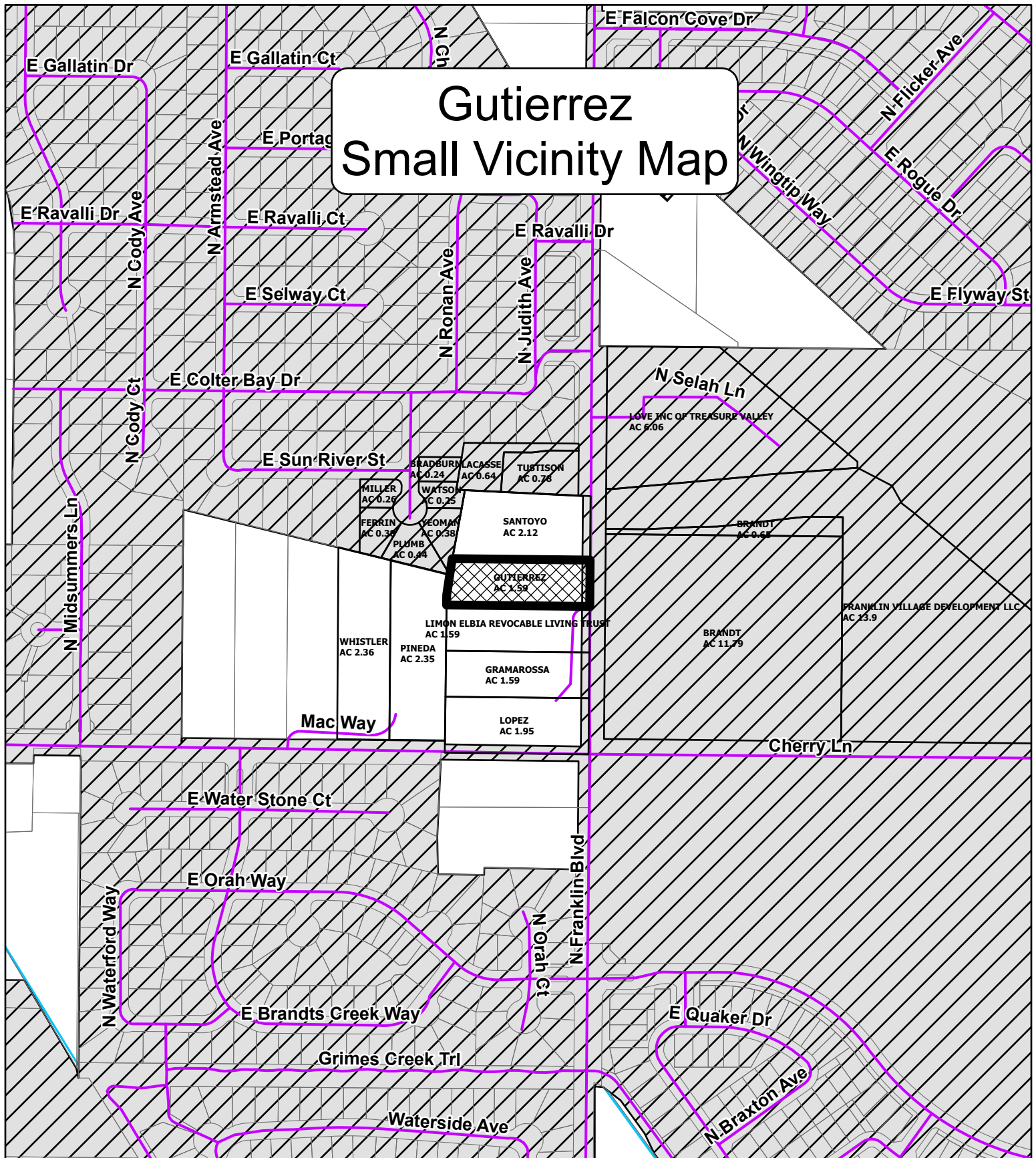
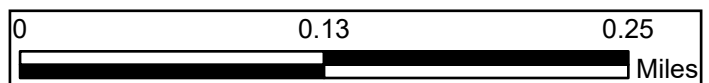
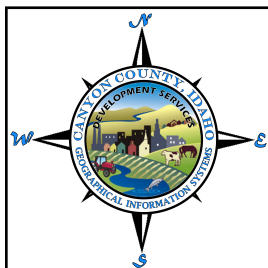
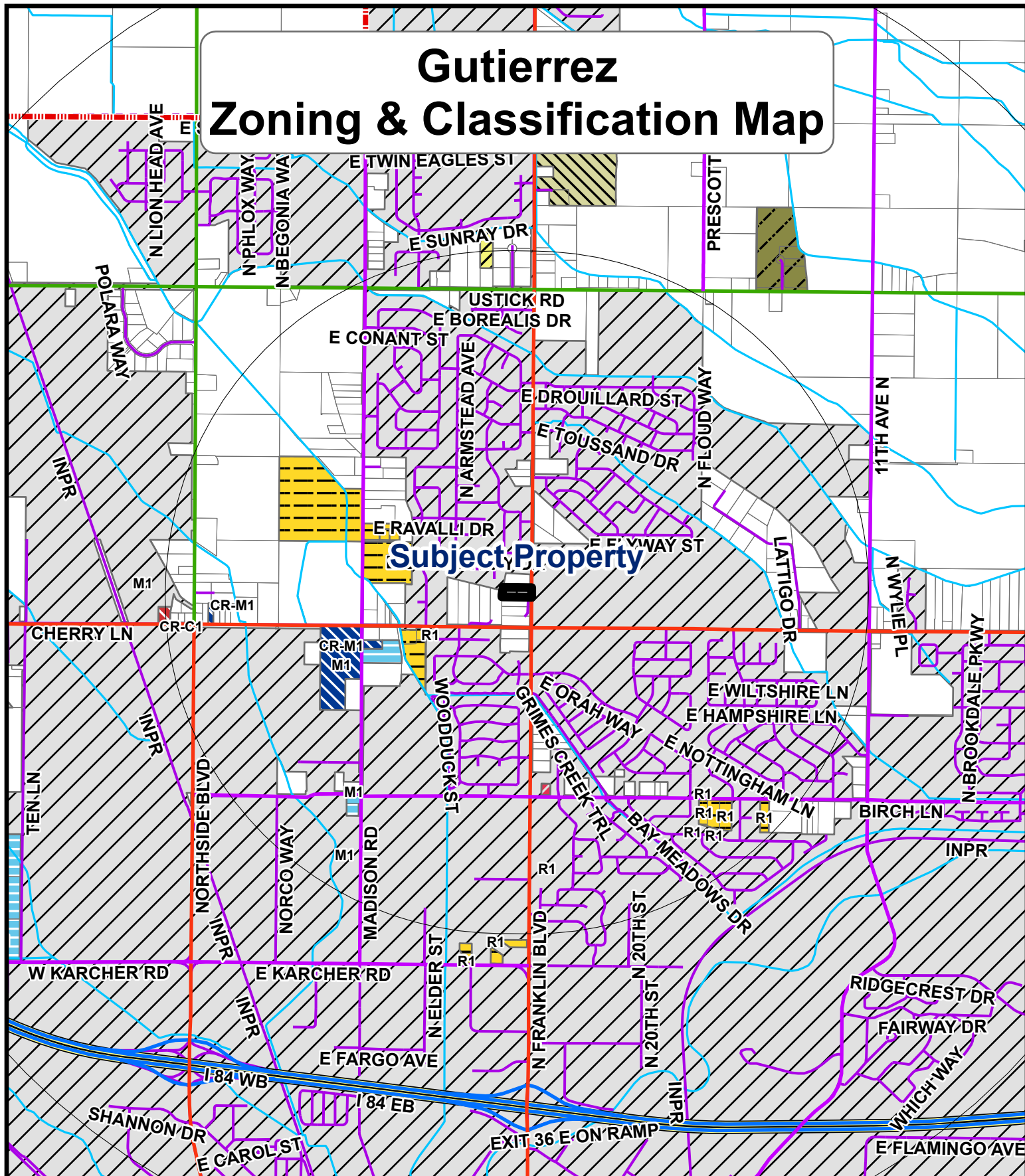


Exhibit 3b



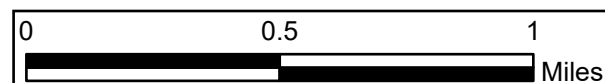
Gutierrez Zoning & Classification Map



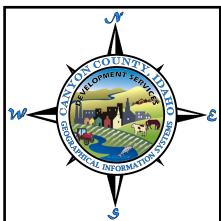
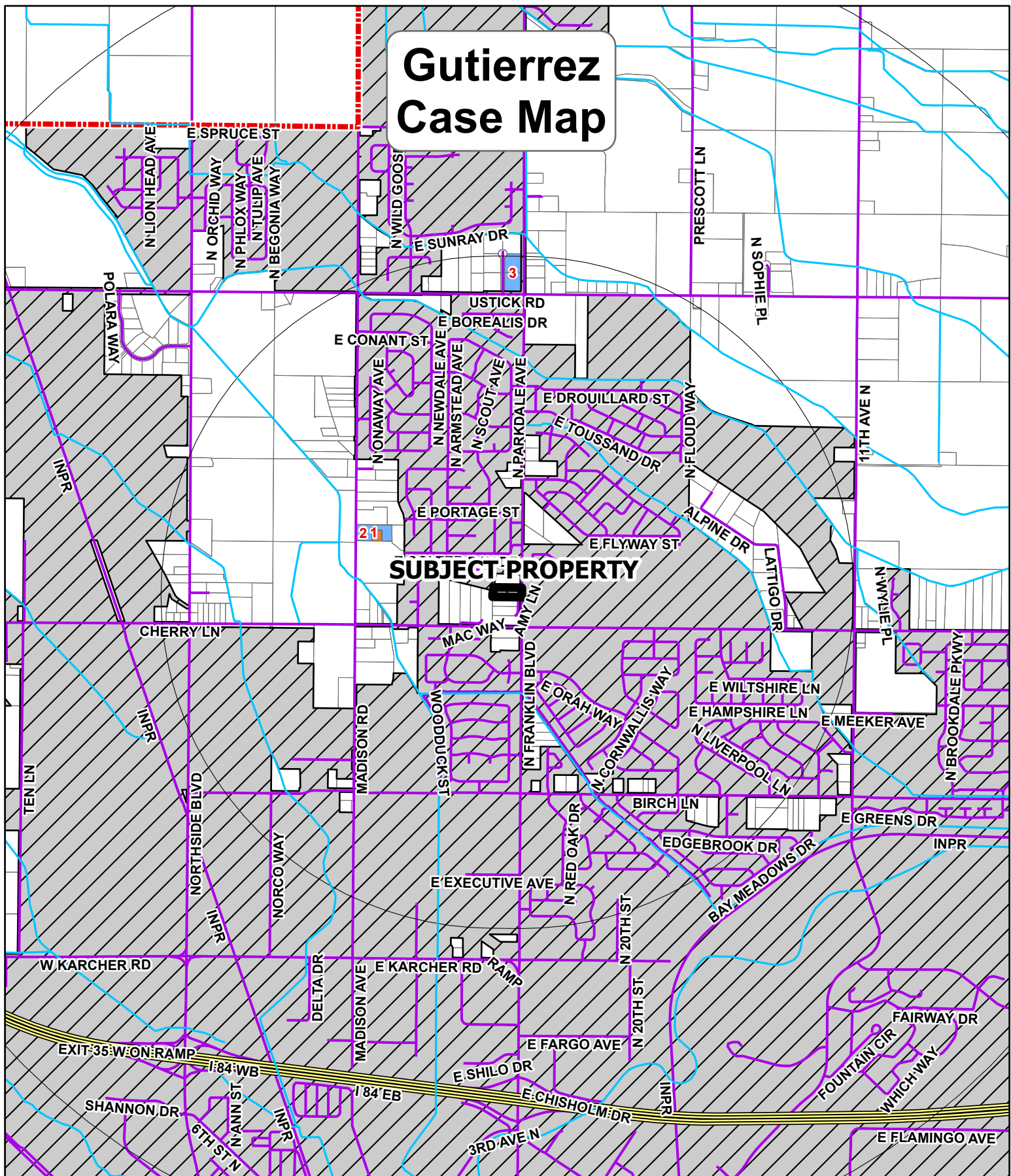
ZONING

Figure 1: Legend of the symbols used in the maps. The legend shows 11 symbols arranged in a grid. The first column has four symbols: yellow with black diagonal lines (RR), yellow with black diagonal lines and a black border (CR-RR), yellow with a black border (R1), and olive green with black diagonal lines and a black border (CR-R1). The second column has four symbols: orange with a black border (R2), red with a black border (C), pink with black diagonal lines and a black border (C1), and red with black diagonal lines and a black border (CR-C1). The third column has four symbols: pink with a black border (C2), pink with a black border and a black grid (CR-C2), light blue with a black border (M1), and dark blue with black diagonal lines and a black border (CR-M1). The fourth column has two symbols: blue with black diagonal lines and a black border (M2) and a white box with a black border (AG).






Exhibit 3c



Gutierrez Case Map



YEAR

	2018		2021
	2019		2022
	2020		

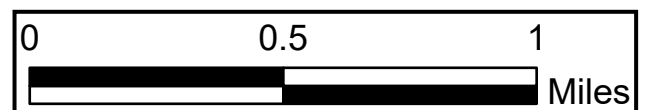
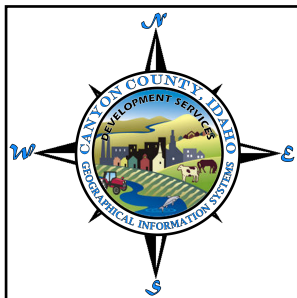
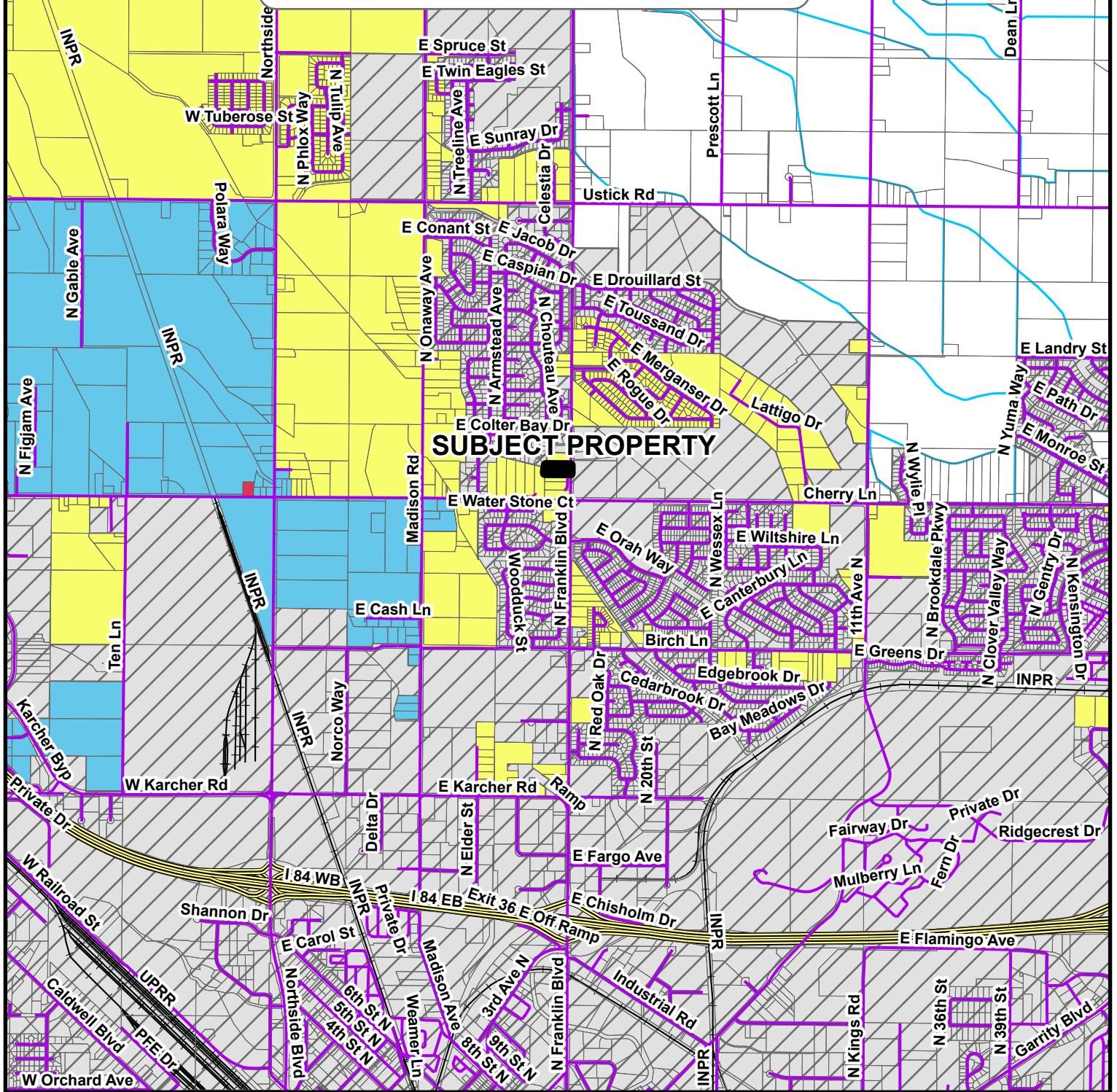


Exhibit 3d

CASE SUMMARY

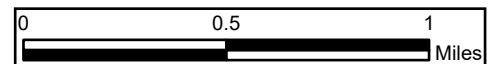
ID	CASENUM	REQUEST	CASENAME	FINALDECIS
1	PH2018-15	Rezone AG to R1	Garner/ Hess Living Trust	APPROVED
2	SD2019-0013	Preliminary Plat	Hesse Acres Sub	APPROVED
3	OR2021-0010	Comp Plan Change to Res	Niblett	APPROVED

Gutierrez Future Land Use map



- Legend**
- COMMERCIAL
 - INDUSTRIAL
 - RESIDENTIAL
 - Scenic_Byway

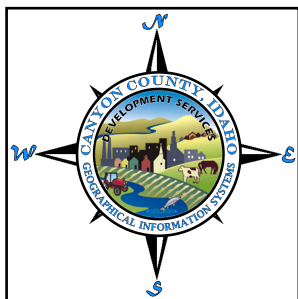
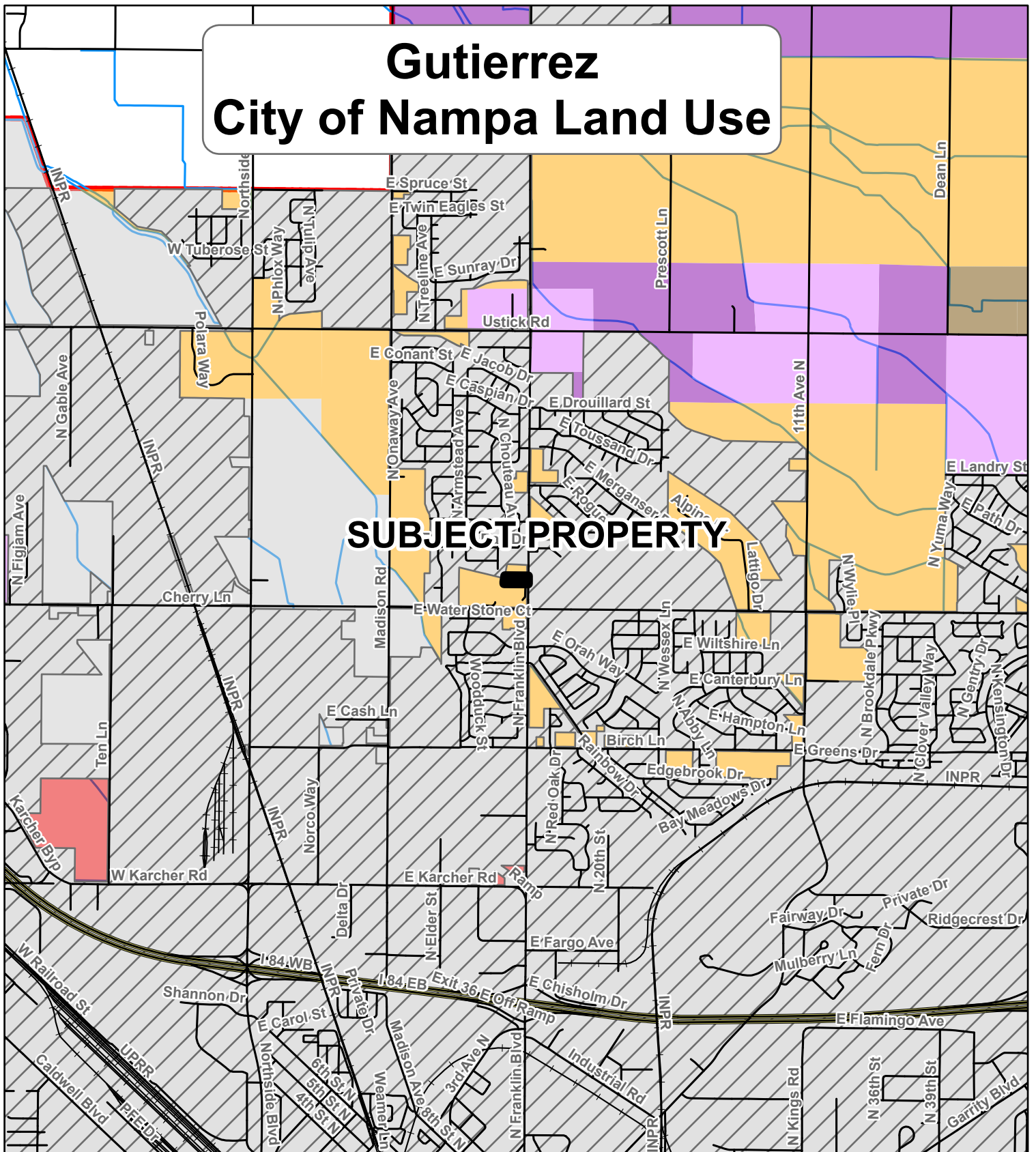
Exhibit 3e



Gutierrez

City of Nampa Land Use

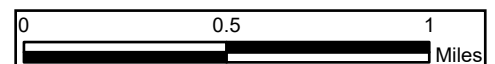
SUBJECT PROPERTY



NampaCompPlan

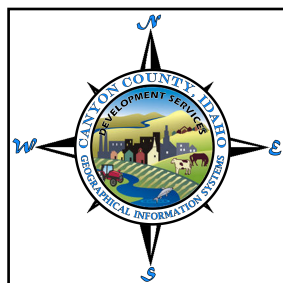
- Agricultural
- ▨ Airport
- Commercial
- Downtown
- Education, Public Administration, Healthcare and Other Institutions
- Industrial
- Parks
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Residential Mixed Use
- Community Mixed Use

Exhibit 3f



Gutierrez

Nitrate Priority & Wells



 10.00 - 49.80

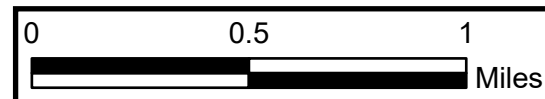


Exhibit 3g

Madelyn Vander Veen

From: Caleb Laclair <laclairc@cityofnampa.us>
Sent: Monday, December 19, 2022 9:50 AM
To: Madelyn Vander Veen
Subject: [External] FW: [External]Legal Notice Gutierrez / CU2022-0038

Nampa Engineering Division has no comment or concern regarding this application.



Caleb LaClair, P.E.
Assistant City Engineer, Engineering
O: 208.468.5422, C: 208.250.2679
[City of Nampa, Like us on Facebook](#)

NAMPA Ready

From: Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>
Sent: Monday, December 19, 2022 9:23 AM
To: Robyn Sellers <sellersr@cityofnampa.us>; Caleb Laclair <laclairc@cityofnampa.us>; Kristi Watkins <watkinsk@cityofnampa.us>; Daniel Badger <BadgerD@cityofnampa.us>; Doug Critchfield <critchfieldd@cityofnampa.us>; Nathan Haveman <havemann@cityofnampa.us>; Char Tim <timc@cityofnampa.us>
Subject: [External]Legal Notice Gutierrez / CU2022-0038

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Dear Agency;

You are hereby notified, pursuant to the Joint Exercise of Power Agreement between the City of Nampa and Canyon County, that the Development Services Department has accepted the following application: **CU2022-0038**. Attached for your review is a copy of the letter of intent and a site plan. If you would like additional information please contact Planner Madelyn VanderVeen at Madelyn.vanderveen@canyoncounty.id.gov.

Thank you,



Bonnie Puleo
Sr. Administrative Specialist
Canyon County Development Services
111 No 11th Ave. Suite 310
Caldwell, ID 83605
bonnie.puleo@canyoncounty.id.gov
(208) 454-6631 *direct*
(208) 454-6633 *fax*

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Madelyn Vander Veen

From: Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>
Sent: Tuesday, December 20, 2022 3:46 PM
To: Madelyn Vander Veen
Subject: [External] RE: Agency Notice Gutierrez / CU2022-0038

Good Afternoon, Madelyn.

After careful review of the transmittal submitted to ITD on December 19, 2022, regarding Canyon County's agency notice Gutierrez / CU2022-0038, the Department has no comments or concerns to make at this time.

Thank you,



Niki Benyakhlef
Development Services Coordinator

District 3 Development Services
O: 208.334.8337
C: 208.296.9750
Email: niki.benyakhlef@itd.idaho.gov
Website: itd.idaho.gov

From: Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>
Sent: Monday, December 19, 2022 9:13 AM
To: Rob Johnson Nampa Fire <johnsonre@nampafire.org>; 'johnsonrl@cityofnampa.us' <johnsonrl@cityofnampa.us>; 'jenny.titus@vallivue.org' <jenny.titus@vallivue.org>; Lisa Boyd <lisa.boyd@vallivue.org>; Joseph Palmer <joseph.palmer@vallivue.org>; 'mitch.kiester@phd3.idaho.gov' <mitch.kiester@phd3.idaho.gov>; Jack Nygaard <jack.nygarrrd@phd3.idaho.gov>; 'eddy@nampahighway1.com' <eddy@nampahighway1.com>; Idaho Power <easements@idahopower.com>; Megan Kelly <mkelly@idahopower.com>; 'JESSICA.MANSELL@INTGAS.COM' <JESSICA.MANSELL@INTGAS.COM>; 'MONICA.TAYLOR@INTGAS.COM' <MONICA.TAYLOR@INTGAS.COM>; 'kirk@pioneerirrigation.com' <kirk@pioneerirrigation.com>; D3 Development Services <D3Development.Services@itd.idaho.gov>; Niki Benyakhlef <Niki.Benyakhlef@itd.idaho.gov>; Brian Crawforth <Brian.Crawforth@canyoncounty.id.gov>; 'mstowell@ccparamedics.com' <mstowell@ccparamedics.com>; 'huffj@cityofnampa.us' <huffj@cityofnampa.us>
Subject: Agency Notice Gutierrez / CU2022-0038

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Good morning:

Please see the attached agency notice. Please direct your comments or questions to Planner Madelyn VanderVeen at madelyn.vanderveen@canyoncounty.id.gov

Thank you,



Bonnie Puleo

Sr. Administrative Specialist

Canyon County Development Services

111 No 11th Ave. Suite 310

Caldwell, ID 83605

bonnie.puleo@canyoncounty.id.gov

(208) 454-6631 *direct*

(208) 454-6633 *fax*

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Madelyn Vander Veen

From: Eddy Thiel <eddy@nampahighway1.com>
Sent: Tuesday, January 3, 2023 7:30 AM
To: Madelyn Vander Veen
Subject: [External] FW: Agency Notice Gutierrez / CU2022-0038
Attachments: CU2022-0038.pdf

Good Morning Madelyn,

Nampa Highway District #1 has no comment as the ROW in front of the subject property is annexed by the City of Nampa and they would have access control for this area.

Thank you,

Eddy

Eddy Thiel
ROW
eddy@[nampahighway1.com](mailto:eddy@nampahighway1.com)
4507 12th Ave. Rd. • Nampa, id 83686
TEL 208.467.6576 • FAX 208.467.9916

From: Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>
Sent: Monday, December 19, 2022 9:13 AM
To: Rob Johnson Nampa Fire <johnsonre@nampafire.org>; 'johnsonrl@cityofnampa.us' <johnsonrl@cityofnampa.us>; 'jenny.titus@vallivue.org' <jenny.titus@vallivue.org>; Lisa Boyd <lisa.boyd@vallivue.org>; Joseph Palmer <joseph.palmer@vallivue.org>; 'mitch.kiester@phd3.idaho.gov' <mitch.kiester@phd3.idaho.gov>; Jack Nygaard <jack.nygarrrd@phd3.idaho.gov>; Eddy Thiel <eddy@nampahighway1.com>; Idaho Power <easements@idahopower.com>; Megan Kelly <mkelly@idahopower.com>; 'JESSICA.MANSELL@INTGAS.COM' <JESSICA.MANSELL@INTGAS.COM>; 'MONICA.TAYLOR@INTGAS.COM' <MONICA.TAYLOR@INTGAS.COM>; 'kirk@pioneerirrigation.com' <kirk@pioneerirrigation.com>; 'd3development.services@itd.idaho.gov' <d3development.services@itd.idaho.gov>; 'niki.benyakhlef@itd.idaho.gov' <niki.benyakhlef@itd.idaho.gov>; Brian Crawforth <Brian.Crawforth@canyoncounty.id.gov>; 'mstowell@ccparamedics.com' <mstowell@ccparamedics.com>; 'huffj@cityofnampa.us' <huffj@cityofnampa.us>
Subject: Agency Notice Gutierrez / CU2022-0038

Good morning:

Please see the attached agency notice. Please direct your comments or questions to Planner Madelyn VanderVeen at madelyn.vanderveen@canyoncounty.id.gov

Thank you,



Bonnie Puleo

Sr. Administrative Specialist

Canyon County Development Services

111 No 11th Ave. Suite 310

Caldwell, ID 83605

bonnie.puleo@canyoncounty.id.gov

(208) 454-6631 *direct*

(208) 454-6633 *fax*

IMPORTANT: The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email by mistake, please notify the sender immediately and do not disclose the contents to anyone or make copies thereof.

Madelyn Vander Veen

From: Eric Arthur
Sent: Tuesday, January 10, 2023 11:23 AM
To: Madelyn Vander Veen
Subject: R30792 17087 N. Franklin Road

After reviewing Code Enforcement case CDEF2021-0017, it appears the issuance of a CUP for a staging area for the above referenced property would mitigate any current code Enforcement concerns. I recommend proceeding with the CUP application. Let me know if you need anything else on the property. If the CUP is approved, let me know so we can close the Code Enforcement case as "complied". Thanks.

Effective Jan. 3, 2023
Monday, Tuesday, Thursday and Friday
8am – 5pm
Wednesday
1pm – 5pm
**We will not be closed during lunch hour **



Canyon County Development Services

E. Arthur

Code Enforcement Supervisor,
Direct: 208.454.6606
Office: 208.454.7458
111 North 11th Avenue, #310
Caldwell Idaho 83605
www.canyoncounty.id.gov

Madelyn Vander Veen

From: Doug Critchfield <critchfieldd@cityofnampa.us>
Sent: Wednesday, January 18, 2023 11:08 AM
To: Madelyn Vander Veen
Cc: Rodney Ashby; Caleb Laclair
Subject: [External] CU2022-0038 Gutierrez

Madelyn - The application meets the criteria in the Comprehensive Plan. Planning and Zoning has no comments on this project. Thank you - Doug

Notice: All communication transmitted within the City of Nampa Email system may be a public record and may be subject to disclosure under the Idaho Public Records Act (Idaho Code 74-101 et seq.) and as such may be copied and reproduced by members of the public. In addition, archives of all City emails are generally kept for a period of two years and are also subject to monitoring and review.

MASTER APPLICATION

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #310, Caldwell, ID 83605

zoninginfo@canyoncounty.id.gov

Phone: 208-454-7458

Fax: 208-454-6633



PROPERTY OWNER	OWNER NAME: Manuel Gutierrez
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 602 2211 EMAIL: mgutierrez10324@gmail.com *
I consent to this application and allow DSD staff / Commissioners to enter the property for site inspections. If owner(s) are a business entity, please include business documents, including those that indicate the person(s) who are eligible to sign.	
Signature: <u>Manuel Gutierrez</u> Date: <u>2-16-23</u>	

email has letter L not a 1

(AGENT) ARCHITECT ENGINEER BUILDER	CONTACT NAME: Jose Gutierrez
	COMPANY NAME: Progressive Lawn Care LLC
	MAILING ADDRESS: 17087 N Franklin Blvd Naupa ID 83687
	PHONE: 208 869 3334 EMAIL: progressivelawncarejose@gmail.com

SITE INFO	STREET ADDRESS: 17087 N Franklin Blvd Naupa ID 83687		
	PARCEL #: R30792	LOT SIZE/AREA:	
	LOT:	BLOCK:	
	SUBDIVISION:		
	QUARTER:	SECTION:	
TOWNSHIP:		RANGE:	
ZONING DISTRICT:		FLOODZONE (YES/NO):	

HEARING LEVEL APPS	<input checked="" type="checkbox"/> CONDITIONAL USE	<input type="checkbox"/> COMP PLAN AMENDMENT	<input type="checkbox"/> CONDITIONAL REZONE
	<input type="checkbox"/> ZONING AMENDMENT (REZONE)	<input type="checkbox"/> DEV. AGREEMENT MODIFICATION	<input type="checkbox"/> VARIANCE > 33%
	<input type="checkbox"/> MINOR REPLAT	<input type="checkbox"/> VACATION	<input type="checkbox"/> APPEAL
	<input type="checkbox"/> SHORT PLAT SUBDIVISION	<input type="checkbox"/> PRELIMINARY PLAT SUBDIVISION	<input type="checkbox"/> FINAL PLAT SUBDIVISION

DIRECTORS DECISION APPS	<input type="checkbox"/> ADMINISTRATIVE LAND DIVISION	<input type="checkbox"/> EASEMENT REDUCTION	<input type="checkbox"/> SIGN PERMIT
	<input type="checkbox"/> PROPERTY BOUNDARY ADJUSTMENT	<input type="checkbox"/> HOME BUSINESS	<input type="checkbox"/> VARIANCE 33% >
	<input type="checkbox"/> PRIVATE ROAD NAME	<input checked="" type="checkbox"/> TEMPORARY USE	<input type="checkbox"/> DAY CARE
	<input type="checkbox"/> OTHER		

CASE NUMBER:	DATE RECEIVED:
RECEIVED BY:	APPLICATION FEE: CK MO CC CASH

February 16, 2023

Canyon County Development Services Dept
111 North 11th Ave #310
Caldwell, ID 83605

To Whom It May Concern:

RE: Conditional Use Permit for Progressive Lawn Care LLC

We respectfully request to appeal the decision made to deny our application for a Conditional Business Use Permit. We list the following reasons why we believe the denial decision should be reversed:

- We started this process for application in June 2022. We were provided with and mailed out notices to all required neighboring homeowners on 06/21/22 and held the required public hearing 06/29/22.
- We submitted our application mid-July 2022 with the required fee and waited to hear a response.
- We received an email August 21, 2022 that one of the property owners was now opposing the conditional use permit and we were working through what options were still available. We believe the opposition arose from a personal family matter that we were able to resolve.
- On September 26, 2022 we received confirmation that that same owner who opposed the permit had changed her mind and signed off on the application. An email was received stating that the case was awaiting to be assigned.
- We sent an email a month later, October 24, 2022 to follow up because we had not heard anything. We were told that the case had not yet been assigned to a planner, but the office was trying to get things done as quickly as they could since they were understaffed.
- After a month and a half – December 15, 2022 we received notification that the case had finally been assigned to someone.
- A few days later, December 19, 2022 – we received notification that a hearing had been scheduled for January 19, 2023.
- The hearing was finally scheduled nearly 7 months after starting the process and holding the required public hearing for neighboring home owners, but we appreciated finally getting a hearing date to move forward with the application.
- The hearing was held on January 19, 2023.
- We attending the hearing as required, we spoke regarding our application, intentions for use of the property, and were willing to answer any questions.
- At the hearing, there were three or four people who spoke against our application. It is our understanding that the people were all from the same household. The members of the household live at a home across the canal and in a neighborhood located behind our property. They disagreed with the approval of the permit due to multiple instances of loud music seemingly from parties. While we understand that they have a right to complain about loud music or house parties, we were confused as to how this complaint pertained to the application

for business use of the property. We were given a chance for a response and felt that the committee acted unprofessionally for questioning us about being "good neighbors". We were approached by various people after the denial for our permit was given who were shocked and confused as to why the meeting proceeded in that manner. We believe it was confusing

- On February 8, 2023 – we reached out regarding whether an appeal would be necessary or not and were advised to wait to hear back from the department.
- On February 16, 2023 – we received an email advising us to file the appeal and that it was due the next day February 17, 2023.

We strongly believe that we did everything within our power to comply with the application process as well as any additional requests. We understand that the department being understaffed is a challenge, but contend that our application process was extended beyond a reasonable amount of time. Neighbors and homeowners possibly affected by the conditional use permit application were notified timely and we did not receive any opposition within a reasonable time frame. We have no control over if new renters or homeowners moved into neighborhoods after the required public hearing was held. The complaints that were expressed at the hearing had nothing at all to do with the business use of the property. The complaints came from neighbors who had issued with a noise complaint from a party. We do not understand how this relates to our application for approval to use the property for storage for our landscaping materials and/or machines. The temporary business use of our property is extremely important to the operations and success of our landscaping business.

We would appreciate if you would reconsider the denial of our application. The dissension that was expressed by a neighbor at the hearing resulted from a personal matter/annoyance and had nothing to do with the business located at the property.

We would also request that the \$600 fee to process this appeal/application be waived and/or refunded. We contend that the initial fee paid with the initial application in July 2022 should be sufficient as we complied with all requirements and then waited a significant period of time to have a hearing scheduled.

We are happy to provide copies of any and all email correspondence mentioned earlier in this appeal letter if it would be helpful in tracking the extended waiting period regarding our application. The employee(s) from the department were always extremely helpful and apologetic as we waited for the process to go through the required steps. The employee(s) from the department were also helpful as we were guided through the appeals process.

In conclusion, we continue to be confused as to why the denial of our application occurred due to the fact that the complaint against the conditional business use had nothing at all to do with the business. We respectfully request that our appeal be upheld, the initial decision overturned, and our application be approved.

With Regard,



Manuel Gutierrez
Home Owner



Jose Gutierrez
Business Owner